

MT LEGISLATIVE HISTORY

Chapter 811 19 91

Bill H _____ S 445

Original bill & hist. ☒ C

H. Committee on Taxation

S. Committee on Taxation

Hearing Date(s) Apr 10 ☒ C

Hearing Date(s) Mar 14 ☒ C *14*

Apr 12 ☒ C

Mar 23 ☒ C *12*

_____ ☐ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

Date Out Apr 12 ☒ C

Mar 23 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

SENATE FINAL STATUS

SB 447

SB 445 INTRODUCED BY DOHERTY, ET AL.

PROVIDE UNIFORM TAX REVIEW PROCESS FOR MOST
TAXES MANAGED BY DEPARTMENT OF REVENUE
BY REQUEST OF DEPARTMENT OF REVENUE

2/20	FISCAL NOTE REQUESTED		
2/20	FISCAL NOTE RECEIVED		
2/20	INTRODUCED		
2/20	FIRST READING		
2/20	REFERRED TO TAXATION		
2/25	FISCAL NOTE PRINTED		
3/14	HEARING		
3/23	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/26	2ND READING PASSED	49	0
3/27	3RD READING PASSED	48	1
	TRANSMITTED TO HOUSE		
3/27	FIRST READING		
3/27	REFERRED TO TAXATION		
4/10	HEARING		
4/13	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/16	2ND READING CONCURRED	100	0
4/17	3RD READING CONCURRED	100	0
	RETURNED TO SENATE WITH AMENDMENTS		
4/18	2ND READING AMENDMENTS CONCURRED	49	0
4/19	3RD READING AMENDMENTS CONCURRED	49	0
4/23	SIGNED BY PRESIDENT		
4/24	SIGNED BY SPEAKER		
4/24	TRANSMITTED TO GOVERNOR		
	RETURNED TO SENATE WITH GOVERNOR'S AMENDMENTS		
4/25	2ND READING GOVERNOR'S AMENDMENTS CONCURRED	49	0
4/29	3RD READING GOVERNOR'S AMENDMENTS CONCURRED	48	0
	TRANSMITTED TO HOUSE		
4/29	2ND READING GOVERNOR'S AMENDMENTS CONCURRED	96	2
5/03	SIGNED BY PRESIDENT		
5/03	SIGNED BY SPEAKER		
5/03	TRANSMITTED TO GOVERNOR		
5/17	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 811		

EFFECTIVE DATE: 05/17/91 - SECTION 1

EFFECTIVE DATE: 10/01/91 - SECTIONS 2-32

SB 446 INTRODUCED BY REA, ET AL.

INCREASE VIDEO GAMBLING TAX TO BE USED TO
INCREASE LIVE HORSERACING PURSES

2/20	FISCAL NOTE REQUESTED
2/20	INTRODUCED
2/20	FIRST READING
2/20	REFERRED TO TAXATION
2/25	FISCAL NOTE RECEIVED
2/26	FISCAL NOTE PRINTED
3/14	HEARING
4/01	TABLED IN COMMITTEE

SB 447 INTRODUCED BY SVRCEK

REVISE REASONABLE MEDICAL TREATMENT
UNDER WORKERS' COMPENSATION

SENATE BILL NO. 445

INTRODUCED BY DOHERTY, MAZUREK

BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE SENATE

FEBRUARY 20, 1991

INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

FIRST READING.

MARCH 23, 1991

COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

MARCH 25, 1991

PRINTING REPORT.

MARCH 26, 1991

SECOND READING, DO PASS.

MARCH 27, 1991

ENGROSSING REPORT.

THIRD READING, PASSED.
AYES, 48; NOES, 1.

TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 27, 1991

INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

FIRST READING.

APRIL 13, 1991

COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

APRIL 16, 1991

SECOND READING, CONCURRED IN.

APRIL 17, 1991

THIRD READING, CONCURRED IN.
AYES, 100; NOES, 0.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 18, 1991

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 19, 1991

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

APRIL 23, 1991

REPORTED CORRECTLY ENROLLED.

SIGNED BY PRESIDENT.

APRIL 24, 1991

SIGNED BY SPEAKER.

DELIVERED TO GOVERNOR.

RETURNED FROM GOVERNOR WITH
RECOMMENDED AMENDMENTS.

APRIL 25, 1991

SECOND READING, GOVERNOR'S
AMENDMENTS CONCURRED IN.

APRIL 29, 1991

THIRD READING, GOVERNOR'S
AMENDMENTS CONCURRED IN.

IN THE HOUSE

APRIL 29, 1991

SECOND READING, GOVERNOR'S
AMENDMENTS CONCURRED IN.

IN THE SENATE

APRIL 29, 1991

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *445*
2 INTRODUCED BY *Monty Montgomery*
3 BY REQUEST OF THE DEPARTMENT OF REVENUE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING MONTANA
6 TAXPAYERS WITH A SIMPLE, INEXPENSIVE, AND EFFECTIVE TAX
7 REVIEW PROCESS FOR TAXES ADMINISTERED BY THE DEPARTMENT OF
8 REVENUE EXCEPT PROPERTY, INHERITANCE, AND ESTATE TAXES BUT
9 INCLUDING REVISED ASSESSMENTS OF CENTRALLY ASSESSED PROPERTY
10 TAXES; CLARIFYING AND LIMITING THE USE OF DECLARATORY
11 JUDGMENT ACTIONS IN TAX CASES; PROVIDING AUTHORITY TO ENTER
12 INTO CLOSING AGREEMENTS; AMENDING SECTIONS 15-1-402,
13 15-1-403, 15-1-406, 15-1-705, 15-2-307, 15-8-601, 15-23-104,
14 15-25-114, 15-30-148, 15-30-149, 15-31-503, 15-31-532,
15 15-31-701, 15-35-112, 15-36-105, 15-36-113, 15-37-110,
16 15-37-114, 15-37-210, 15-38-110, 15-51-109, 15-53-105,
17 15-55-106, 15-58-110, 15-59-112, 15-59-212, 15-65-115,
18 69-1-225, AND 69-1-226, MCA; REPEALING SECTION 15-55-107,
19 MCA; AND PROVIDING EFFECTIVE DATES AND APPLICABILITY DATES."

20
21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22 NEW SECTION. Section 1. Uniform tax review procedure
23 -- notice -- appeal. (1) The department shall provide a
24 uniform tax review procedure for all taxpayers, except as
25 provided in subsection (1)(a).

1 (a) The tax review procedure described in this section
2 applies to all taxes administered by the department except
3 inheritance taxes, estate taxes, and property taxes. The
4 procedure applies to any revised assessment of centrally
5 assessed property taxed pursuant to chapter 23.

6 (b) The term "taxpayers", as used in this section,
7 includes all persons determined by the department to have a
8 potential tax liability.

9 (2) (a) If the department determines that a request for
10 a refund should be denied in whole or part, it shall notify
11 the taxpayer of the determination. If the department
12 determines that a person has failed to pay a sufficient tax,
13 interest, or penalty, it shall provide the taxpayer with
14 notice, such as a preliminary assessment or other document
15 indicating that the tax, including interest and penalty, if
16 any, is due. The notice stops the running of any applicable
17 statute of limitations.

18 (b) A notice under this section must clearly state:

19 (i) the reasons for the department's determination that
20 a refund is not due or that tax plus interest and penalty,
21 if any, is due;

22 (ii) the taxpayer's right to a review by the department
23 and his right to appeal after a final department decision;

24 (iii) failure to notify the department within 30 days
25 will result in a forfeiture of the taxpayer's right to

1 contest the department's determination;

2 (iv) that the taxpayer has 30 days to either notify the
3 department in writing that he does not agree with an
4 assessment or pay the amount assessed; and

5 (v) that a warrant for distraint placing a lien on the
6 taxpayer's property may be issued unless he notifies the
7 department that he disagrees with an assessment or pays
8 within 30 days.

9 (3) (a) A taxpayer shall notify the department, in
10 writing, that he objects to the determination within 30 days
11 from the date the notice is mailed. The notification by the
12 taxpayer is not required to specify the reasons for the
13 disagreement or be in any particular form. If the taxpayer
14 does not notify the department within 30 days:

15 (i) an assessment becomes final and the assessed tax,
16 plus any interest and penalty, must be paid;

17 (ii) the taxpayer waives any further right to review or
18 appeal; and

19 (iii) a warrant for distraint may be issued without
20 further opportunity to be heard on the assessment.

21 (b) A taxpayer who validly notifies the department that
22 he disagrees with a tax assessment shall present his
23 objections, the reasons for his objections, and any other
24 required information to the administrator of the division
25 that administers the tax or to his designee within 60 days

1 after the notice is mailed. The reasons for objections may
2 be provided in writing, by telephone, or, if requested by
3 the taxpayer, at an informal conference. An informal
4 conference is not subject to the Montana Administrative
5 Procedure Act.

6 (c) Within 30 days after the taxpayer has presented his
7 objections, the administrator or his designee shall issue a
8 written decision addressing the taxpayer's objections and
9 describing the reasons for the determination. The
10 administrator's decision must also clearly set forth the
11 taxpayer's review rights. The administrator's decision must
12 be provided to the taxpayer and the director of revenue.

13 (4) (a) Within 30 days after mailing of the
14 administrator's decision, the taxpayer may object to the
15 administrator's decision with the department or he may
16 appeal to the state tax appeal board as provided in
17 subsection (6). If an objection is not made within 30 days,
18 the administrator's decision and any assessment become
19 final. By failing to object, the taxpayer waives any further
20 right to review and a warrant for distraint may be issued
21 without further opportunity to be heard on the assessment.

22 (b) Except as provided in subsection (6), a taxpayer
23 who validly objects to the administrator's decision shall
24 present his objections, his reasons for the objections, and
25 any other required information to the director of revenue or

1 his designee within 90 days after the notice is mailed. The
2 director or his designee may consider written information,
3 hold a telephone conference, or conduct an informal
4 conference, none of which are subject to the Montana
5 Administrative Procedure Act.

6 (c) Within 90 days after the taxpayer has presented his
7 objections, the director or his designee shall issue a
8 written decision addressing the objections and describing
9 the reasons for the decision. The director's decision is the
10 final decision and assessment of the department.

11 (5) The taxpayer shall pay the assessment within 30
12 days after being mailed a copy of the final decision and
13 assessment unless an appeal is filed with the state tax
14 appeal board. If an appeal with the board is filed within 30
15 days after the final decision is mailed, payment is not due
16 until final resolution by the board or, if further appeals
17 are filed, by the appropriate court. However, any interest
18 required by law shall continue to accrue.

19 (6) (a) A taxpayer who validly objects to the
20 administrator's decision may elect to file an appeal with
21 the state tax appeal board. The appeal must be filed within
22 30 days after mailing an objection to the administrator's
23 decision.

24 (b) If the director notifies the board within 30 days
25 after an appeal is filed that he has not had an opportunity

1 to review a final assessment or decision and he believes a
2 review may be helpful in resolving the controversy, the
3 board shall stay the appeal for a time the board considers
4 reasonable. The taxpayer shall provide his objections and
5 reasons for his objections to the director so that the
6 director or his designee may review the controversy and
7 issue a decision within the period of the stay granted by
8 the board. If the taxpayer is dissatisfied with the
9 director's decision, the stay must be lifted and the appeal
10 resumed.

11 (7) The time limits in this section must be applied and
12 interpreted as provided in the Montana Rules of Civil
13 Procedure. Any time limit may be extended by mutual consent
14 of the department and the taxpayer or by order of the
15 department. The department shall grant all reasonable
16 requests for extension of deadlines.

17 (8) (a) The director of revenue or his designee is
18 authorized to enter into an agreement with any taxpayer
19 relating to the taxpayer's liability with respect to a tax
20 administered by the department for any taxable period.

21 (b) An agreement under the provisions of subsection
22 (8)(a) is final and conclusive, and, except upon a showing
23 of fraud, malfeasance, or misrepresentation of a material
24 fact:

25 (i) the agreement may not be reopened as to matters

1 agreed upon or be modified by any officer, employee, or
2 agent of this state; and

3 (ii) in any suit, action, or proceeding under the
4 agreement or any determination, assessment, collection,
5 payment, abatement, refund, or credit made in accordance
6 with the agreement, the agreement may not be annulled,
7 modified, set aside, or disregarded.

8 **Section 2.** Section 15-1-402, MCA, is amended to read:

9 "15-1-402. Payment of taxes under protest -- action to
10 recover. (1) The person upon whom a property tax or license
11 fee collected by a county or municipality is being imposed
12 may proceed under 15-1-406 or may, before the tax or license
13 fee becomes delinquent, pay under written protest that
14 portion of the tax or license fee protested. The payment
15 must:

16 (a) be made to the officer designated and authorized to
17 collect it;

18 (b) specify the grounds of protest; and

19 (c) not exceed the difference between the payment for
20 the immediately preceding tax year and the amount owing in
21 the tax year protested unless a different amount results
22 from the specified grounds of protest, which grounds may
23 include but are not limited to changes in assessment due to
24 reappraisal under 15-7-111.

25 (2) After having exhausted the administrative appeals

1 available under Title 15, chapters 2 and 15, a person or his
2 legal representative may bring an action in any court of
3 competent jurisdiction against the officers to whom said tax
4 or license fee was paid or against the county or
5 municipality in whose behalf the same was collected and the
6 department of revenue.

7 (3) Both the officers to whom the tax or license fee
8 was paid or the county or municipality in whose behalf the
9 same was collected and the department of revenue must be
10 served with timely summons and complaint within the time
11 prescribed.

12 (4) An action instituted to recover any such portions
13 of tax or license fee paid under protest must be commenced
14 and summons timely served within 60 days after the date of
15 the final decision of the state tax appeal board.

16 (5) If a protested tax or license fee is payable in
17 installments, a subsequent installment portion considered
18 unlawful by the state tax appeal board need not be paid and
19 no action or suit need be commenced to recover the
20 subsequent installment. The determination of the action or
21 suit commenced to recover the first installment portion paid
22 under protest determines the right of the party paying such
23 subsequent installment to have the same or any part thereof
24 refunded to him or the right of the taxing authority to
25 collect a subsequent installment not paid by the taxpayer

1 plus interest from the date the subsequent installment was
2 due.

3 (6) All taxes and license fees paid under protest to a
4 county or municipality must be deposited by the treasurer of
5 the county or municipality to the credit of a special fund
6 to be designated as a protest fund and must be retained in
7 the protest fund until the final determination of any action
8 or suit to recover the same unless released at the request
9 of the county, municipality, or other local taxing
10 jurisdiction pursuant to subsection (7). Nothing contained
11 herein prohibits the investment of the money of this fund in
12 the state unified investment program or in any manner
13 provided in Title 7, chapter 6. The provision creating the
14 special protest fund does not apply to any payments made
15 under protest directly to the state.

16 (7) The governing board of a taxing jurisdiction
17 affected by the payment of taxes under protest in the second
18 and subsequent years that a tax protest remains unresolved
19 may demand that the treasurer of the county or municipality
20 pay the requesting taxing jurisdiction all or a portion of
21 the protest payments to which it is entitled, except the
22 amount paid by the taxpayer in the first year of the
23 protest. The decision in a previous year of a taxing
24 jurisdiction to leave protested taxes in the protest fund
25 does not preclude it from demanding in a subsequent year any

1 or all of the payments to which it is entitled, except the
2 first-year protest amount.

3 (8) (a) If no action is commenced within the time
4 herein specified or if such action is commenced and finally
5 determined in favor of the county or municipality or
6 treasurer thereof, the amount of the protested portions of
7 the tax or license fee must be taken from the protest fund
8 and deposited to the credit of the fund or funds to which
9 the same property belongs, less a pro rata deduction for the
10 costs of administration of the protest fund and related
11 expenses charged the local government units.

12 (b) If such action is finally determined adversely to a
13 county or municipality or the treasurer thereof, then the
14 treasurer shall, upon receiving a certified copy of the
15 final judgment in said action from the state tax appeal
16 board, or from the district or supreme court, as
17 appropriate, if the final action of the state tax appeal
18 board is appealed in the time prescribed, refund to the
19 person in whose favor such judgment is rendered the amount
20 of such protested portions of the tax or license fee
21 deposited in the protest fund, and not released pursuant to
22 subsection (7), as the person holding such judgment is
23 entitled to recover, together with interest thereon from the
24 date of payment under protest, at the greater of:

25 (i) the rate of interest generated from the pooled

investment fund provided for in 17-6-203 for the applicable period; or

(ii) 6% a year.

(c) If the amount retained in the protest fund is insufficient to pay all sums due the taxpayer, the treasurer shall apply the available amount first to tax repayment, then interest owed, and lastly to costs.

(d) If the protest action is decided adversely to a taxing jurisdiction and the amount retained in the protest fund is insufficient to refund the tax payments and costs to which the taxpayer is entitled and for which local government units are responsible, the treasurer shall bill and the taxing jurisdiction shall refund to the treasurer that portion of the taxpayer refund, including tax payments and costs, for which the taxing jurisdiction is proratably responsible.

(e) In satisfying the requirements of subsection (8)(d), the taxing jurisdiction is allowed not more than 1 year from the beginning of the fiscal year following a final resolution of the protest. The taxpayer is entitled to interest on the unpaid balance at the greater of the rates referred to in subsections (8)(b)(i) and (8)(b)(ii) from the date of payment under protest until the date of final resolution of the protest and at the combined rate of the federal reserve discount rate quoted from the federal

reserve bank in New York, New York, on the date of final resolution, plus four percentage points, from the date of final resolution of the protest until refund is made.

(9) A taxing jurisdiction may satisfy the requirements of this section by use of funds from one or more of the following sources:

(a) imposition of a property tax to be collected by a special tax protest refund levy;

(b) the general fund, except that amount generated by the all-purpose mill levy, or any other funds legally available to the governing body; and

(c) proceeds from the sale of bonds issued by a county, city, or school district for the purpose of deriving revenue for the repayment of tax protests lost by the taxing jurisdiction. The governing body of a county, city, or school district is hereby authorized to issue such bonds pursuant to procedures established by law. The bonds may be issued without being submitted to an election. Property taxes may be levied to amortize the bonds."

Section 3. Section 15-1-403, MCA, is amended to read:

"15-1-403. Assessment for taxation -- increase over statement of owner. (1) Whenever any person has delivered to the department of revenue or its agent a sworn statement of his locally assessed property subject to taxation as now provided by law and giving the estimated value of such

1 property and the department or its agent shall increase such
 2 estimated value or add other property to such assessment
 3 list, the agent shall, at least 10 days prior to the meeting
 4 of the county tax appeal board, give to such person written
 5 notice of such change, which notice shall be substantially
 6 in the following form:

7 (Date)

8 Mr.:

9 A change has been made in your assessment list as
 10 follows:

11 (Set out and describe specifically changes made in
 12 list.)

13, Agent
 14 Department of Revenue

15 (2) Such person may then appear before the county tax
 16 appeal board and contest the same. If the assessment of any
 17 such person has been added to or changed, either by the
 18 department or by the county tax appeal board, and such
 19 person has not been notified thereof and given an
 20 opportunity to contest the same before the county tax appeal
 21 board, the tax on such increased value or added property
 22 shall, upon such facts being established, be adjudged by the
 23 state tax appeal board to be void, and such facts and all
 24 questions relating thereto, when said tax has been paid
 25 under protest, may be heard and determined in the action

1 provided for in 15-1-402."

2 **Section 4.** Section 15-1-406, MCA, is amended to read:

3 "15-1-406. Alternative remedy -- declaratory judgment.

4 (1) An aggrieved taxpayer may, in lieu of proceeding under
 5 15-1-402 or [section 1], bring a declaratory judgment action
 6 in the district court seeking a declaration that a tax
 7 levied by the state or one of its subdivisions was illegally
 8 or unlawfully imposed or exceeded the taxing authority of
 9 the entity imposing the tax.

10 (2) The action must be brought within 90 days after the
 11 taxpayer receives notice of the imposition of the tax. The
 12 court shall consolidate all actions brought under subsection
 13 (1) which challenge the same tax levy. The decision of the
 14 court shall apply to all similarly situated taxpayers except
 15 those taxpayers who are excluded under 15-1-407.

16 (3) The taxes that are being challenged under this
 17 section must be paid when due as a condition of continuing
 18 the action.

19 (4) The court may issue judgment for the party bringing
 20 the action only if the pleading, depositions, answers to
 21 interrogatories, and admissions on file, together with
 22 affidavits, if any, show that there is no genuine issue as
 23 to any material fact and the party bringing the action is
 24 entitled to a judgment as a matter of law. Section 15-2-307
 25 and this section are the exclusive authority for a

declaratory judgment that taxes were illegally or unlawfully imposed or exceed the authority of the entity imposing the tax."

Section 5. Section 15-1-705, MCA, is amended to read:

"15-1-705. Hearing Review. (1) Except as provided in 15-1-707, a taxpayer has the right to request-a-hearing-on a review of the matter-of tax liability pursuant to [section 1] prior to execution on a filed warrant for distraint.

(2) The department must provide notice of the right to hearing review to the taxpayer. A-request-for-a-hearing-must be-made-in-writing-within-30-days-of-the-date-of-the-notice- This notice may be given prior to the notice referred to in 15-1-702. If a-written-request-for-a-hearing-is-received the taxpayer notified the department that he disagrees with an assessment as provided in [section 1], the warrant may not be executed upon until after the date-the-hearing-is-held or, if the taxpayer fails to attend a scheduled hearing, the date-the-hearing-is-scheduled review process and any appeals are completed.

{3}--The--hearing--is--subject--to--the--contested--case provisions-of--the--Montana--Administrative--Procedure--Act-- Before--a-decision-may-be-appealed-to-the-district-court,--an appeal-must-first-be-taken-to-the-state-tax-appeal-board,--A request--for--a--hearing--must--be--in--writing--in-order-to postpone-execution-on-a-warrant--"

Section 6. Section 15-2-307, MCA, is amended to read:

"15-2-307. Challenge to assessment rules or procedures.

An aggrieved taxpayer may, in lieu of proceeding under Title 15, chapter 15, part 1, bring a declaratory judgment action pursuant to 15-1-406 in the district court seeking a declaration that a method or procedure of assessment of property adopted or utilized by the department of revenue is illegal or improper."

Section 7. Section 15-8-601, MCA, is amended to read:

"15-8-601. Assessment revision -- conference for review. (1) Whenever the department of revenue discovers that any taxable property of any person has in any year escaped assessment, been erroneously assessed, or been omitted from taxation, the department may assess the same provided the property is under the ownership or control of the same person who owned or controlled it at the time it escaped assessment, was erroneously assessed, or was omitted from taxation. All such revised assessments must be made within 10 years after the end of the calendar year in which the original assessment was or should have been made.

(2) Whenever the department or its agent proposes to increase the valuation of locally assessed property above the value reported by the taxpayer under 15-8-301, the action of the department is subject to the notice and conference provisions of this section. Revised assessments

1 of centrally assessed property are subject to review
 2 pursuant to [section 1].

3 (3) (a) Notice of revised assessment pursuant to this
 4 section shall be made by the department or its agent by
 5 postpaid letter addressed to the person interested within 10
 6 days after the revised assessment has been made. ~~The~~ If the
 7 property is locally assessed, the notice shall include
 8 opportunity for a conference on the matter, at the request
 9 of the person interested, not less than 15 or more than 30
 10 days after notice is given.

11 (b) An assessment revision review conference is not a
 12 contested case as defined in the Montana Administrative
 13 Procedure Act. The department shall keep minutes in writing
 14 of each assessment review conference, which are public
 15 records.

16 (c) Following an assessment review conference or
 17 expiration of opportunity therefor, the department shall
 18 order such assessment as it considers proper. Any party to
 19 the conference aggrieved by the action of the department may
 20 ~~appeal-directly-to-the-state-tax-appeal-board-within-30-days~~
 21 ~~or--if--the-property-is-locally-assessed,~~ may appeal to the
 22 county tax appeal board at its next meeting.

23 (4) The department must record in a book to be kept for
 24 that purpose all changes, corrections, and orders made by it
 25 and must direct its agent to enter upon the assessment book

1 all changes and corrections made by it.

2 (5) Immediately upon receipt of a revised assessment,
 3 the county official possessing the assessment roll book
 4 shall enter the revised assessment. If the revised
 5 assessment corrects an original assessment, the previous
 6 entry shall be canceled upon order of the department."

7 **Section 8.** Section 15-23-104, MCA, is amended to read:

8 "15-23-104. Failure to file -- estimate by department
 9 -- penalty. If any person fails to file a report or return
 10 within the time established in 15-23-103 or by such later
 11 date as the department may approve, the department shall
 12 estimate the value of the property to have been reported on
 13 the basis of the best available information. In estimating
 14 the value of the net proceeds of mines, the department shall
 15 proceed under 15-23-506, and in estimating the value of the
 16 gross proceeds of coal mines, the department shall proceed
 17 under 15-35-107. In estimating the value of all other
 18 property subject to assessment under parts 2 through 4 of
 19 this chapter, the department shall proceed under 15-1-303.
 20 In estimating value under this section, the department may
 21 subpoena a person or his agent as specified in 15-1-302. An
 22 assessment pursuant to parts 5 through 8 of this chapter
 23 based on estimated value or imputed value is subject to
 24 review under ~~15-8-601~~ [section 1]. Each month or part of a
 25 month a report is delinquent, the department shall impose

and collect a \$25 penalty, the total not to exceed \$200, and shall deposit such penalty to the credit of the general fund. The department will also inform its agents in the counties of the delinquency, and the agents shall assess a penalty of 1% of the tax due for each month or part of a month the report is delinquent."

Section 9. Section 15-25-114, MCA, is amended to read:

"15-25-114. Tax appeal review. A person aggrieved by an assessment pursuant to 15-25-111 or an exemption decision pursuant to 15-25-112 may appeal seek a review of the assessment or exemption decision pursuant to ~~Title--15,~~ chapter-27-part-3 [section 1]."

Section 10. Section 15-30-148, MCA, is amended to read:

"15-30-148. Judicial review. (1) The determination of the state tax appeal board may be reviewed in the district court for Lewis and Clark County or the county in which the taxpayer resides or has his principal office or place of business by a complaint filed by the taxpayer or the department within ~~6-months~~ 30 days after the receipt of notice of the ~~decision--of--the--state--tax--appeal-board~~ determination. Proceedings for review shall be otherwise as specified under the Montana Administrative Procedure Act.

(2) The remedies provided by this chapter for the collection of the tax shall be stayed, and no assessment, distraint, or proceedings in court for collection of the

taxes may be made, begun, or prosecuted until 90 days after such court action is finally determined. From any determination of such court, an appeal to the supreme court may be taken by either party."

Section 11. Section 15-30-149, MCA, is amended to read:

"15-30-149. Credits and refunds -- period of limitations. (1) If the department discovers from the examination of a return or upon claim duly filed by a taxpayer or upon final judgment of a court that the amount of income tax collected is in excess of the amount due or that any penalty or interest was erroneously or illegally collected, the amount of the overpayment shall be credited against any income tax, penalty, or interest then due from the taxpayer and the balance of such excess shall be refunded to the taxpayer.

(2) (a) A credit or refund under the provisions of this section may be allowed only if, prior to the expiration of the period provided by 15-30-145 and by 15-30-146 during which the department may determine tax liability, the taxpayer files a claim or the department determines there has been an overpayment.

(b) If an overpayment of tax results from a net operating loss carryback, the overpayment may be refunded or credited within the period that expires on the 15th day of the 40th month following the close of the taxable year of

1 the net operating loss if that period expires later than 5
2 years from the due date of the return for the year to which
3 the net operating loss is carried back.

4 (3) Within 6 months after a claim for refund is filed,
5 the department shall examine ~~said~~ the claim and either
6 approve or disapprove it. If ~~said~~ the claim is approved, the
7 credit or refund ~~shall~~ must be made to the taxpayer within
8 60 days after the claim is approved, ~~if~~ If the claim is
9 disallowed, the department shall so notify the taxpayer and
10 ~~shall grant a hearing thereon upon proper application by the~~
11 ~~taxpayer, if the department disapproves a claim for refund,~~
12 review of the determination of the department may be had
13 pursued as otherwise provided in this chapter [section 1].

14 (4) ~~Except as hereinafter provided for, interest shall~~
15 be Interest is allowed on overpayments at the same rate as
16 is charged on delinquent taxes. due Interest is payable from
17 the due date of the return or from the date of the
18 overpayment, ~~{whichever date is later},~~ to the date the
19 department approves refunding or crediting of the
20 overpayment. With respect to tax paid by withholding or by
21 estimate, the date of overpayment ~~shall be deemed to be~~ is
22 the date on which the return for the taxable year was due.
23 ~~No interest shall~~ Interest does not accrue on an overpayment
24 if the taxpayer elects to have it applied to his estimated
25 tax for the succeeding taxable year, ~~nor shall interest.~~

1 Interest does not accrue during any period the processing of
2 a claim for refund is delayed more than 30 days by reason of
3 failure of the taxpayer to furnish information requested by
4 the department for the purpose of verifying the amount of
5 the overpayment. ~~No--interest--shall--be~~ Interest is not
6 allowed if:

7 (a) the overpayment is refunded within 6 months from
8 the date the return is due or the date the return is filed,
9 whichever date is later;

10 (b) the overpayment results from the carryback of a net
11 operating loss; or

12 (c) the amount of interest is less than \$1.

13 (5) An overpayment not made incident to a bona fide and
14 orderly discharge of an actual income tax liability or one
15 reasonably assumed to be imposed by this law ~~shall~~ is not be
16 considered an overpayment with respect to which interest is
17 allowable."

18 **Section 12.** Section 15-31-503, MCA, is amended to read:

19 "**15-31-503. Deficiency assessment -- hearing notice --**
20 **interest.** (1) If the department of revenue determines that
21 the amount of tax due is greater than the amount disclosed
22 by the return, it shall mail to the taxpayer a notice,
23 pursuant to [section 1], of the additional tax proposed to
24 be assessed. The taxpayer may seek review of the
25 determination pursuant to [section 1]. Within 30 days after

the mailing of the notice, the taxpayer may file with the department a written protest against the proposed additional tax, setting forth the grounds upon which the protest is based, and may request in its protest an oral hearing or an opportunity to present additional evidence relating to its tax liability. If no protest is filed, the amount of the additional tax proposed to be assessed becomes final upon the expiration of the 30-day period. If such protest is filed, the department shall reconsider the proposed assessment and, if the taxpayer has so requested, shall grant the taxpayer an oral hearing. After consideration of the protest and the evidence presented in the event of an oral hearing, the department's action upon the protest is final when it mails notice of its action to the taxpayer.

(2) When a deficiency is determined and the tax becomes final, the department shall mail notice and demand to the taxpayer for the payment thereof, and the tax shall be due and payable at the expiration of 10 days from the date of such notice and demand. Interest on any deficiency assessment shall bear interest from the date specified in 15-31-502 for payment of the tax. A certificate by the department of the mailing of the notices specified in this subsection shall be prima facie evidence of the computation and levy of the deficiency in tax and of the giving of the notices."

Section 13. Section 15-31-532, MCA, is amended to read:

"15-31-532. Application for refund -- appeal from denial. If the department of revenue disallows any claim for refund, it shall notify the taxpayer accordingly. At the expiration of 30 days from the mailing of the notice, the department's action shall become final unless within the 30-day period the taxpayer appeals in writing from the action of said department to the state tax appeal board. If such appeal is made, the board shall grant the taxpayer an oral hearing. After consideration of the appeal and evidence presented, the board shall forthwith mail notice to the taxpayer of its determination. The board's determination is final when it mails notice of its action to the taxpayer as provided in [section 1]. The taxpayer may seek review of the decision pursuant to [section 1]."

Section 14. Section 15-31-701, MCA, is amended to read:

"15-31-701. Department of revenue -- special duties for transmitting corporation license tax revenues collected from banks or savings and loan associations to counties. (1) Within 30 days after receiving corporation license tax returns and payments from banks or savings and loan associations, the department of revenue shall transmit to the county treasurer of the county in which the business is located the revenues calculated under 15-31-702(1)(b).

(2) If the department of revenue determines, under the

1 provisions of 15-31-503 and 15-31-531, that a bank or
 2 savings and loan association owes more taxes than shown on
 3 the original return or has paid more than the tax, penalty,
 4 or interest due in any year, it shall notify the bank or
 5 savings and loan association pursuant to [section 1].
 6 ~~Additional payment is due within 10 days after receipt of~~
 7 ~~the final determination of taxes due. Review may be sought~~
 8 ~~pursuant to [section 1].~~ County treasurers shall issue
 9 warrants for their portion of the overpayment received and
 10 interest, as provided in 15-31-531.

11 (3) The department shall continue to exercise all its
 12 duties and powers outlined in this title with respect to
 13 auditing returns and enforcing payment of the corporation
 14 license taxes owed by banks and savings and loan
 15 associations. Any delinquent taxes collected from the sale
 16 of property of a bank or savings and loan association under
 17 the provisions of 15-31-525 shall be transmitted to the
 18 county in which the corporation owing the delinquent taxes
 19 is located. The only duties of the county treasurers in this
 20 regard are issuing refunds and distributing the taxes to
 21 local taxing jurisdictions."

22 **Section 15.** Section 15-35-112, MCA, is amended to read:
 23 "15-35-112. Deficiency assessment -- hearing review --
 24 interest. (1) When the department of revenue determines that
 25 the amount of tax due is greater than the amount disclosed

1 by a return, it shall mail to the taxpayer a notice,
 2 pursuant to [section 1], of the additional tax proposed to
 3 be assessed. ~~Within 30 days after mailing of the notice, the~~
 4 ~~taxpayer may file with the department a written protest~~
 5 ~~against the proposed additional tax, setting forth the~~
 6 ~~grounds upon which the protest is based, and may request in~~
 7 ~~his protest an oral hearing or an opportunity to present~~
 8 ~~additional evidence relating to his tax liability. If no~~
 9 ~~protest is filed, the amount of the additional tax proposed~~
 10 ~~to be assessed becomes final upon the expiration of the~~
 11 ~~30-day period. If a protest is filed, the department must~~
 12 ~~reconsider the proposed assessment and, if the taxpayer has~~
 13 ~~so requested, must grant the taxpayer an oral hearing. After~~
 14 ~~consideration of the protest and the evidence presented at~~
 15 ~~any oral hearing, the department's action upon the protest~~
 16 ~~is final when it mails notice of its action to the taxpayer~~
 17 The taxpayer may seek review of the determination pursuant
 18 to [section 1].

19 (2) ~~When a deficiency is determined and the tax becomes~~
 20 ~~final, the department shall mail a notice and demand for~~
 21 ~~payment to the taxpayer. The tax is due and payable at the~~
 22 ~~expiration of 10 days from the date of such notice and~~
 23 ~~demand.~~ Interest on any deficiency assessment shall bear
 24 interest until paid at the rate of 1% a month or fraction
 25 thereof, computed from the original due date of the return."

Section 16. Section 15-36-105, MCA, is amended to read:

"15-36-105. Statement to accompany payment -- records -- collection of tax -- refunds. (1) Each person shall, within 60 days after the end of each following quarter, complete on forms prescribed by the department of revenue a statement showing the total number of barrels of merchantable or marketable petroleum and other mineral or crude oil or cubic feet of natural gas produced or extracted by the person in the state during each month of the quarter and during the whole quarter, the average value of the production during each month, and the total value of the production for the whole quarter, together with the total amount due to the state as severance taxes and local government severance taxes for the quarter, and shall within such 60 days deliver the statement and, except as provided in 15-36-102(2) and 15-36-121, pay to the department the amount of the taxes shown by the statement to be due to the state for the quarter for which the statement is made. The statement must be signed by the individual or the president, vice-president, treasurer, assistant treasurer, or managing agent in this state of the association, corporation, joint-stock company, or syndicate making the statement. Any person engaged in carrying on business at more than one place in this state or owning, leasing, controlling, or operating more than one oil or gas well in this state may

include all operations in one statement. The department shall receive and file all statements and collect and receive from the person making and filing a statement the amount of tax payable by the person, if any, as appears in the statement.

(2) It is the duty of the department to examine each of the statements and compute the taxes thereon, and the amount computed by the department is the tax imposed, assessed against, and payable by the taxpayer making the statement for the quarter for which the statement is filed. If the tax found to be due is greater than the amount paid, the excess must be paid by the taxpayer to the department ~~within 10~~ days after written notice of the amount of the deficiency is mailed by the department to the taxpayer pursuant to [section 1]. The taxpayer may seek review of the department's determination pursuant to [section 1]. If the tax imposed is less than the amount paid, the difference must be applied as a credit against tax liability for subsequent quarters or refunded if there is no subsequent tax liability.

(3) If the tax is not paid on or before the due date, there must be assessed a penalty of 10% of the amount of the tax, unless it is shown that the failure was due to reasonable cause and not due to neglect. If any tax under this chapter is not paid when due, interest must be added to

the tax at the rate of 1% a month or fraction thereof, computed on the total amount of severance tax and penalty from the due date until paid."

Section 17. Section 15-36-113, MCA, is amended to read:

"15-36-113. Deficiency assessment -- hearing review -- interest. (1) When the department of revenue determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to [section 1], of the additional tax proposed to be assessed. Within 30 days after mailing of the notice, the taxpayer may file with the department a written protest against the proposed additional tax, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his tax liability. If no protest is filed, the amount of the additional tax proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department must reconsider the proposed assessment and, if the taxpayer has so requested, must grant the taxpayer an oral hearing. After consideration of the protest and the evidence presented at any oral hearing, the department's action upon the protest is final when it mails notice of its action to the taxpayer. The taxpayer may seek review of the determination pursuant to [section 1].

(2) When a deficiency is determined and the tax becomes final, the department shall mail a notice and demand for payment to the taxpayer. The tax is due and payable at the expiration of 10 days from the date of such notice and demand. Interest on any deficiency assessment shall bear interest until paid at the rate of 1% a month or fraction thereof, computed from the original due date of the return."

Section 18. Section 15-37-110, MCA, is amended to read:

"15-37-110. Hearing on Review of determination of gross value of product or amount of tax. Every person whose license tax has been determined and assessed by the department of revenue under any of the provisions of this part who feels aggrieved by the determination and assessment of the department as to the amount of gross value of product or as to the amount of the license tax may seek review pursuant to [section 1], at any time within 10 days after the receipt of the required notice of such determination and assessment, file with the state tax appeal board a petition for a hearing, in which petition must be stated the grounds and reasons therefor and the manner in which the amount of the gross value of product or the amount of the license tax, or both, should be changed or corrected. Upon the filing of such petition, if it appears to the satisfaction of the state tax appeal board therefrom that the department has erred in any manner in ascertaining and determining the

1 amount-of-the-gross-value-of-product-or-the--amount--of--the
 2 license--tax,--or--both,--the-board-shall-immediately-correct
 3 such--error--or--errors,--and--if--such--correction--is---in
 4 conformity--with-the-request-contained-in-the-petition-for-a
 5 hearing,--the-board-shall-take-no-further-steps-in-connection
 6 with-such-petition-other-than-to-notify--the--department--of
 7 the--correct--amount-of-the-license-tax-due-from-such-person
 8 after-the-making--of--such--correction--and--notifying--such
 9 person--thereof,--if-from-such-examination-it-does-not-appear
 10 to-the-satisfaction-of-the-state-tax-appeal-board--that--the
 11 department--has--erred--in-any-manner,--the-board-shall-grant
 12 the-hearing,--fix-a-day-when-the-board-will-take-up-and--hear
 13 such--matter,--and-give-notice-to-such-person-of-such-date-of
 14 hearing-as-the-board-considers-reasonable. At-the-hearing-of
 15 such-petition,--any-taxpayer-interested--and--the--department
 16 may---introduce--witnesses--and--present--testimony--on--any
 17 material-matters-connected-with-such-return-and-license-tax,
 18 and-after-considering-such-evidence-the-board-shall-fix--and
 19 determine-the-gross-value-of-product-and-reassess-the-amount
 20 of-the-license-tax-to-be-paid-by-such-person-and-give-notice
 21 thereof-to-such-person-and-the-department."

22 **Section 19.** Section 15-37-114, MCA, is amended to read:

23 "15-37-114. Deficiency assessment -- hearing review --
 24 interest. (1) When the department of revenue determines that
 25 the amount of tax due is greater than the amount disclosed

1 by a return, it shall mail to the taxpayer a notice,
 2 pursuant to [section 1], of the additional tax proposed to
 3 be assessed. Within 30 days after mailing of the notice, the
 4 taxpayer may file with the department a written protest
 5 against the proposed additional tax, setting forth the
 6 grounds upon which the protest is based, and may request in
 7 his protest an oral hearing or an opportunity to present
 8 additional evidence relating to his tax liability. If no
 9 protest is filed, the amount of the additional tax proposed
 10 to be assessed becomes final upon the expiration of the
 11 30-day period. If a protest is filed, the department must
 12 reconsider the proposed assessment and, if the taxpayer has
 13 so requested, must grant the taxpayer an oral hearing. After
 14 consideration of the protest and the evidence presented at
 15 any oral hearing, the department's action upon the protest
 16 is final when it mails notice of its action to the taxpayer.
 17 The taxpayer may seek review of the determination pursuant
 18 to [section 1].

19 (2) When a deficiency is determined and the tax becomes
 20 final, the department shall mail a notice and demand for
 21 payment to the taxpayer. The tax is due and payable at the
 22 expiration of 10 days from the date of such notice and
 23 demand. Interest on any deficiency assessment shall bear
 24 interest until paid at the rate of 1% a month or fraction
 25 thereof, computed from the original due date of the return."

Section 20. Section 15-37-210, MCA, is amended to read:

"15-37-210. Deficiency assessment -- hearing review -- interest. (1) When the department of revenue determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to [section 1], of the additional tax proposed to be assessed. Within 30 days after mailing of the notice, the taxpayer may file with the department a written protest against the proposed additional tax, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his tax liability. If no protest is filed, the amount of the additional tax proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department must reconsider the proposed assessment and, if the taxpayer has so requested, must grant the taxpayer an oral hearing. After consideration of the protest and the evidence presented at any oral hearing, the department's action upon the protest is final when it mails notice of its action to the taxpayer. The taxpayer may seek review of the determination pursuant to [section 1].

(2) When a deficiency is determined and the tax becomes final, the department shall mail a notice and demand for payment to the taxpayer. The tax is due and payable at the

expiration of 10 days from the date of such notice and demand. Interest on any deficiency assessment shall bear interest until paid at the rate of 1% a month or fraction thereof, computed from the original due date of the return."

Section 21. Section 15-38-110, MCA, is amended to read:

"15-38-110. Deficiency assessment -- hearing review -- interest. (1) When the department of revenue determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to [section 1], of the additional tax proposed to be assessed. Within 30 days after mailing of the notice, the taxpayer may file with the department a written protest against the proposed additional tax, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his tax liability. If no protest is filed, the amount of the additional tax proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department must reconsider the proposed assessment and, if the taxpayer has so requested, must grant the taxpayer an oral hearing. After consideration of the protest and the evidence presented at any oral hearing, the department's action upon the protest is final when it mails notice of its action to the taxpayer. The taxpayer may seek review of the determination pursuant

to [section 1].

(2) When a deficiency is determined and the tax becomes final, the department shall mail a notice and demand for payment to the taxpayer. The tax is due and payable at the expiration of 10 days from the date of such notice and demand. Interest on any deficiency assessment shall bear interest until paid at the rate of 1% a month or fraction thereof, computed from the original due date of the return."

Section 22. Section 15-51-109, MCA, is amended to read:

"15-51-109. Deficiency assessment -- hearing review -- interest. (1) When the department of revenue determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to [section 1], of the additional tax proposed to be assessed. Within 30 days after mailing of the notice, the taxpayer may file with the department a written protest against the proposed additional tax, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his tax liability. If no protest is filed, the amount of the additional tax proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department must reconsider the proposed assessment and, if the taxpayer has so requested, must grant the taxpayer an oral hearing. After

consideration of the protest and the evidence presented at any oral hearing, the department's action upon the protest is final when it mails notice of its action to the taxpayer. The taxpayer may seek review of the determination pursuant to [section 1].

(2) When a deficiency is determined and the tax becomes final, the department shall mail a notice and demand for payment to the taxpayer. The tax is due and payable at the expiration of 10 days from the date of such notice and demand. Interest on any deficiency assessment shall bear interest until paid at the rate of 1% a month or fraction thereof, computed from the original due date of the return."

Section 23. Section 15-53-105, MCA, is amended to read:

"15-53-105. Deficiency assessment -- hearing review -- interest. (1) When the department of revenue determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to [section 1], of the additional tax proposed to be assessed. Within 30 days after mailing of the notice, the taxpayer may file with the department a written protest against the proposed additional tax, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his tax liability. If no protest is filed, the amount of the additional tax proposed

1 to--be--assessed--becomes--final--upon-the-expiration-of-the
 2 30-day-period.--If-a-protest-is-filed,--the--department--must
 3 reconsider--the-proposed-assessment-and,--if-the-taxpayer-has
 4 so-requested,--must-grant-the-taxpayer-an-oral-hearing.--After
 5 consideration-of-the-protest-and-the-evidence--presented--at
 6 any--oral--hearing,--the-department's-action-upon-the-protest
 7 is-final-when-it-mails-notice-of-its-action-to-the--taxpayer
 8 The taxpayer may seek review of the determination pursuant
 9 to [section 1].

10 (2) When-a-deficiency-is-determined-and-the-tax-becomes
 11 final,--the-department-shall-mail-a--notice--and--demand--for
 12 payment--to--the-taxpayer.--The-tax-is-due-and-payable-at-the
 13 expiration-of-10-days-from--the--date--of--such--notice--and
 14 demand. Interest on any deficiency assessment shall bear
 15 interest until paid at the rate of 1% a month or fraction
 16 thereof, computed from the original due date of the return."

17 **Section 24.** Section 15-55-106, MCA, is amended to read:

18 "15-55-106. Appeals Review and-refunds. (1) Any-such A
 19 freight line company or railroad company, on or before June
 20 1 of the year in which the tax herein-imposed has been paid,
 21 may file--written-complaint-with-the-state-tax-appeal-board
 22 seek review pursuant to [section 1] concerning the
 23 correctness of the rate used or the correctness of the
 24 amount of the tax imposed or any other matter affecting the
 25 complainant under the provisions of this chapter.

1 {2}--Upon--filing--such--complaint,--the-state-tax-appeal
 2 board-shall-set-the-same-for-hearing-and-shall-give--written
 3 notice--thereof--to--the-complainant-at-least-10-days-before
 4 the-date-set-for-hearing-thereon.--Upon-the--hearing--of--any
 5 such--complaint,--the--state--tax--appeal--board--shall--take
 6 testimony-to-determine-whether-the-amount--of--the--tax,--as
 7 computed--and--determined--by--the-department-of-revenue,--is
 8 greater-than-the-general-ad-valorem--tax--for--all--purposes
 9 would-be-on-the-cars-of-such-freight-line-company-subject-to
 10 taxation--in--Montana-if-assessed-and-taxed-on-an-ad-valorem
 11 basis.--In-such-cases-the-state-tax-appeal-board--shall--have
 12 the--power--and--it--shall-be-its-duty-to-lower-or-raise-the
 13 rates-herein-specified-to-conform-to-the-facts-disclosed--at
 14 such--hearing--and--to--make--the--amount--of--the--tax--due
 15 equivalent--to--such-ad-valorem-tax.--If-the-state-tax-appeal
 16 board-shall-then--determine--that--the--amount--of--the--tax
 17 imposed--and--collected-was-excessive,--the-claimant-shall-be
 18 entitled-to-a-refund-to-the-extent-of-such-excess.

19 {3}--Within--6--months--after--such--determination,--the
 20 claimant-may-present-to-the-department--a--sworn--claim--for
 21 such--refund,--setting--forth--the-amount-thereof.--The-state
 22 auditor-shall-draw-his-warrant-upon-the-state-treasurer--for
 23 the--amount-of-such-claim,--and-the-same-shall-be-paid-in-the
 24 same-manner-as-other-claims-against-the-state-are-paid.

25 {4}{2} In order to determine the amount of tax such a

freight line company would pay, the department may value all cars of ~~any--such~~ the company as a unit and allocate to Montana that proportion of the total value which the Montana car mileage bears to the total car mileage of the cars of ~~any-such~~ the freight line company during the 12-month period ending December 31 of the preceding year and may then apply to ~~such~~ that value the average total rate of all general property taxes levied for the preceding year by the taxing authorities of the state, counties, school districts, municipalities, and other taxing subdivisions for state, county, school and municipal, and other purposes."

Section 25. Section 15-58-110, MCA, is amended to read:

"15-58-110. Deficiency assessment -- hearing review -- interest. (1) When the department of revenue determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to [section 1], of the additional tax proposed to be assessed. ~~Within-30-days-after-mailing-of-the-notice,-the~~
~~taxpayer-may-file-with--the--department--a--written--protest~~
~~against--the--proposed--additional--tax,-setting--forth-the~~
~~grounds-upon-which-the-protest-is-based,-and-may-request--in~~
~~his--protest--an--oral--hearing-or-an-opportunity-to-present~~
~~additional-evidence-relating-to-his--tax--liability,-if-no~~
~~protest--is-filed,-the-amount-of-the-additional-tax-proposed~~
~~to-be-assessed-becomes-final-upon--the--expiration--of--the~~

~~30-day--period,-if-a-protest-is-filed,-the-department-must~~
~~reconsider-the-proposed-assessment-and,-if-the-taxpayer--has~~
~~so-requested,-must-grant-the-taxpayer-an-oral-hearing,-After~~
~~consideration--of--the-protest-and-the-evidence-presented-at~~
~~any-oral-hearing,-the-department's-action-upon--the--protest~~
~~is--final-when-it-mails-notice-of-its-action-to-the-taxpayer~~
The taxpayer may seek review of the determination pursuant
to [section 1].

(2) ~~When-a-deficiency-is-determined-and-the-tax-becomes~~
~~final--the--department--shall--mail-a-notice-and-demand-for~~
~~payment-to-the-taxpayer,-The-tax-is-due-and-payable--at--the~~
~~expiration--of--10--days--from--the--date-of-such-notice-and~~
~~demand-~~ Interest on any deficiency assessment shall bear interest until paid at the rate of 1% a month or fraction thereof, computed from the original due date of the return."

Section 26. Section 15-59-112, MCA, is amended to read:

"15-59-112. Deficiency assessment -- hearing review -- interest. (1) When the department of revenue determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, as provided in [section 1], of the additional tax proposed to be assessed. ~~Within-30-days-after-mailing-of-the-notice,-the~~
~~taxpayer-may-file-with--the--department--a--written--protest~~
~~against--the--proposed--additional--tax,-setting--forth-the~~
~~grounds-upon-which-the-protest-is-based,-and-may-request--in~~

his--protest--an--oral--hearing-or-an-opportunity-to-present additional-evidence-relating-to-his--tax--liability.--If--no protest--is--filed,--the-amount-of-the-additional-tax-proposed to-be-assessed-becomes-final--upon--the--expiration--of--the 30-day--period.--If--a-protest-is-filed,--the-department-must reconsider-the-proposed-assessment-and,--if-the-taxpayer--has so-requested,--must-grant-the-taxpayer-an-oral-hearing.--After consideration--of--the-protest-and-the-evidence-presented-at any-oral-hearing,--the-department's-action-upon--the--protest is--final-when-it-mails-notice-of-its-action-to-the-taxpayer. The taxpayer may seek review of the determination pursuant to [section 1].

(2) When-a-deficiency-is-determined-and-the-tax-becomes final,--the--department--shall--mail-a-notice-and-demand-for payment-to-the-taxpayer.--The-tax-is-due-and-payable--at--the expiration--of--10--days--from--the--date-of-such-notice-and demand: Interest on any deficiency assessment shall bear interest until paid at the rate of 1% a month or fraction thereof, computed from the original due date of the return."

Section 27. Section 15-59-212, MCA, is amended to read:

"15-59-212. Deficiency assessment -- hearing review -- interest. (1) When the department of revenue determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to [section 1], of the additional tax proposed to

be assessed. Within-30-days-after-mailing-of-the-notice,--the taxpayer-may-file-with--the--department--a--written--protest against--the--proposed--additional--tax,--setting--forth--the grounds-upon-which-the-protest-is-based,--and-may-request--in his--protest--an--oral--hearing-or-an-opportunity-to-present additional-evidence-relating-to-his--tax--liability.--If--no protest--is--filed,--the-amount-of-the-additional-tax-proposed to-be-assessed-becomes-final--upon--the--expiration--of--the 30-day--period.--If--a-protest-is-filed,--the-department-must reconsider-the-proposed-assessment-and,--if-the-taxpayer--has so-requested,--must-grant-the-taxpayer-an-oral-hearing.--After consideration--of--the-protest-and-the-evidence-presented-at any-oral-hearing,--the-department's-action-upon--the--protest is--final-when-it-mails-notice-of-its-action-to-the-taxpayer. The taxpayer may seek review of the determination pursuant to [section 1].

(2) When-a-deficiency-is-determined-and-the-tax-becomes final,--the--department--shall--mail-a-notice-and-demand-for payment-to-the-taxpayer.--The-tax-is-due-and-payable--at--the expiration--of--10--days--from--the--date-of-such-notice-and demand: Interest on any deficiency assessment shall bear interest until paid at the rate of 1% a month or fraction thereof, computed from the original due date of the return."

Section 28. Section 15-65-115, MCA, is amended to read:

"15-65-115. Failure to pay or file -- penalty -- review

-- interest. (1) An owner or operator of a facility who fails to file the report as required by 15-65-112 must be assessed a penalty of 2% of the tax that should have been collected during the calendar quarter. Upon a showing of good cause, the department of revenue may waive the penalty.

(2) An owner or operator of a facility who fails to make payment or fails to report and make payment as required by 15-65-112 must be assessed a penalty of 2% of the amount that was not paid. Upon a showing of good cause, the department may waive the penalty.

(3) If an owner or operator of a facility fails to file the report required by 15-65-112 or if the department of revenue determines that the report understates the amount of tax due, the department may determine the amount of the tax due and assess that amount against the owner or operator. The provisions of [section 1] apply to any assessment by the department of revenue. The taxpayer may seek review of the assessment pursuant to [section 1].

(4) The amount required to be paid under 15-65-112 accrues interest at the rate of 1% a month or part thereof from delinquency until paid."

Section 29. Section 69-1-225, MCA, is amended to read:

"69-1-225. Computation and collection of fee in absence of statement -- penalty and interest. (1) If a regulated company or an officer or employee of a regulated company

fails, neglects, or refuses to file the statement required by 69-1-223(2), the department of revenue may after the time for filing has expired proceed to inform itself, as best it may, regarding the regulated company's gross operating revenue from all activities regulated by the commission within the state for the calendar quarter, quarters, or portion thereof and may determine and fix the amount of the consumer counsel fee due.

(2) The department may add to the amount of the fee computed under subsection (1), in addition to any other penalty provided by law, a penalty of 10% thereof plus interest at the rate of 1% per month or fraction of month computed on the total amount of fee and penalty. Interest is computed from the date the fee is due to the date of payment.

(3) The department of revenue shall mail to the regulated company a letter notice, pursuant to [section 1], setting forth the amount of the fee, penalty, and interest and notifying the company that payment of the full amount of the fee, penalty, and interest must be--remitted--within--15 days--of--the--regulated--company's--receipt--of--the--letter; otherwise a lien may be filed. The taxpayer may seek review of the department's action pursuant to [section 1].

(4) The 10% penalty may be waived by the department of revenue if reasonable cause for failure and neglect to file

1 the statement is provided to the department."

2 **Section 30.** Section 69-1-226, MCA, is amended to read:

3 "69-1-226. Failure to pay fee -- penalty and interest
4 -- collection of fee. (1) If a regulated company or an
5 officer or employee of a regulated company files the
6 statement required by 69-1-223(2) but fails, neglects, or
7 refuses to pay the fee due within the time required, the
8 department of revenue may after the time for payment has
9 expired add to the fee due, in addition to any other penalty
10 provided by law, a penalty of 10% thereof plus interest at
11 the rate of 1% per month or fraction of month computed on
12 the total amount of the fee and penalty. Interest is
13 computed from the date the fee is due to the date of
14 payment.

15 (2) The department of revenue shall mail to the
16 regulated company a letter notice, pursuant to [section 1],
17 setting forth the amount of the fee, penalty, and interest
18 and notifying the company that payment of the full amount of
19 the fee, penalty, and interest ~~must be remitted within 15~~
20 ~~days of the regulated company's receipt of the letter,~~
21 ~~otherwise a warrant for distraint may be filed.~~ The taxpayer
22 may seek review of the department's action pursuant to
23 [section 1].

24 (3) The 10% penalty may be waived by the department of
25 revenue if reasonable cause for failure and neglect to make

1 payment is provided to the department."

2 NEW SECTION. **Section 31.** Repealer. Section 15-55-107,
3 MCA, is repealed.

4 NEW SECTION. **Section 32.** Codification instruction.
5 [Section 1] is intended to be codified as an integral part
6 of Title 15, and the provisions of Title 15 apply to
7 [section 1].

8 NEW SECTION. **Section 33.** Applicability. (1) [This act]
9 applies to requests for refunds received by and the
10 preliminary assessments issued by the department of revenue
11 pursuant to [section 1] after December 31, 1991.

12 (2) [Section 4] applies to court actions filed on or
13 after October 1, 1991.

14 NEW SECTION. **Section 34.** Effective dates. (1) For the
15 purposes of promulgating administrative rules to administer
16 [this act, subsection (16) of section 1] is effective on
17 passage and approval.

18 (2) The remainder of [this act] is effective October 1,
19 1991.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

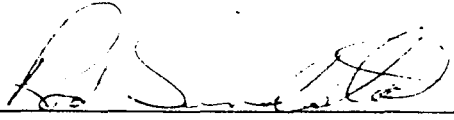
In compliance with a written request, there is hereby submitted a Fiscal Note for SB0445, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing Montana taxpayers with a simple, inexpensive, and effective tax review process for taxes administered by the Department of Revenue except property, inheritance, and estate taxes but including revised assessments of centrally assessed property taxes; clarifying and limiting the use of declaratory judgement actions in tax cases; providing authority to enter into closing agreements; and providing effective dates and applicability dates.

FISCAL IMPACT:

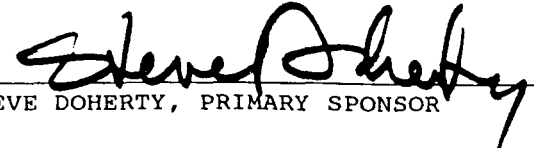
There is no impact on revenues or expenditures under the proposed legislation.



ROD SUNDSTED, BUDGET DIRECTOR

DATE

Office of Budget and Program Planning



STEVE DOHERTY, PRIMARY SPONSOR

DATE

Fiscal Note for SB0445, as introduced

2/25/91
SB 445

BILL STATUS SYSTEM
RPT LCC1

STATE OF MONTANA
MONTANA LEGISLATIVE COUNCIL BILL STATUS SYSTEM
CURRENT STATUS OF ALL BILLS EVER REFERRED TO (S) TAXATION

PAGE NBR..... 166
TIME: 18:01
DATE: 04/26/91

CHAIRMAN--MIKE HALLIGAN
SECRETARY-JILL ROHYANS
NORMAL SCHEDULE==> SITE: RM 413/415

COMMITTEE--(S) TAXATION
DAYS: M,T,W,T,F TIME: 8:00 A.M.

= REFER =
BILL == DATE == LATEST ACTION/DATE=====

SB 412	R 02/18 (S) TRANSMITTED TO GOVERNOR SPONSOR: CRIPPEN, BRUCE	04/24 TITLE-REVISE SALES ASSESSMENT LAW; 3-YEAR REAPPRAISALS STARTING IN 1994
SB 416	R 02/18 (S) TRANSMITTED TO GOVERNOR SPONSOR: WILLIAMS, BOB	04/23 TITLE-ALLOWING A TAX CREDIT FOR THE INSTALLATION OF A GEOTHERMAL DEVICE
SB 416	R 03/18 (S) TRANSMITTED TO GOVERNOR SPONSOR: WILLIAMS, BOB	04/23 TITLE-ALLOWING A TAX CREDIT FOR THE INSTALLATION OF A GEOTHERMAL DEVICE
SB 428	R 02/18 (S) SENT TO ENROLLING SPONSOR: NATHE, DENNIS	04/25 TITLE-ALLOCATE MOTOR FUEL TAXES TO CERTAIN RESERVATIONS
SB 429	02/18 (S) TABLED IN COMMITTEE SPONSOR: JACOBSON, JUDY	03/13 (S) TAXATION TITLE-REVISE BONDING PROVISION FOR TAX INCREMENT FINANCING
SB 435	R 02/19 (H) CONFERENCE COM APPOINTED SPONSOR: BROWN, BOB	04/20 TITLE-REFERENDUM ON 5% INCOME AND CORPORATE SURTAX TO SUPPORT UNIVERSITY SYSTEM MCCARTHY (CHAIR); KADAS; THOMAS
SB 436	AR 02/19 (H) 3RD READ CONF COM RPT REJECT SPONSOR: BROWN, BOB	04/25 TITLE-REVISE AND RESTRUCTURE PROPERTY TAX CLASSIFICATIONS REPORT NO. 1
SB 438	R 02/19 (S) SIGNED BY GOVERNOR SPONSOR: BROWN, BOB	04/25 TITLE-EXEMPT FROM BENEFICIAL USE TAX RAILROAD TRACKS OWNED BY THE UNITED STATES
SB 445	02/20 (S) 2ND READ GOV'S AMD CONCURRED SPONSOR: DOHERTY, STEVE	04/25 TITLE-UNIFORM REVIEW PROCESS FOR MOST DEPT. OF REVENUE ADMINISTERED TAXES
SB 446	AR 02/20 (S) TABLED IN COMMITTEE SPONSOR: REA, JACK	04/01 (S) TAXATION TITLE-INCREASE VIDEO GAMBLING TAX TO BE USED TO INCREASE LIVE HORSERACING PURSES
SB 450	R 02/20 (S) TABLED IN COMMITTEE SPONSOR: HALLIGAN, MIKE	03/22 (S) TAXATION TITLE-DIFFERENT INCOME RATES FOR JOINT, HEAD OF HOUSEHOLD, SEPARATE, AND SINGLE
SB 454	R 02/21 (H) 2ND READ CONCUR MOTION FAILED SPONSOR: DOHERTY, STEVE	04/16 TITLE-PROVIDE COURT-ORDERED FUNDING OF NECESSARY DISTRICT COURT FUNDING
SB 457	R 03/08 (S) TABLED IN COMMITTEE SPONSOR: DOHERTY, STEVE	04/02 (S) TAXATION TITLE-REVISE LAWS ON METAL MINES TAXATION
SB 458	R 03/08 (S) ADVERSE COM RPT ADOPTED SPONSOR: THAYER, GENE	03/27 (S) TAXATION TITLE-PRIVATIZE STATE LIQUOR SALES
SB 459	03/08 (H) TABLED IN COMMITTEE SPONSOR: VAN VALKENBURG, FRED	04/12 (H) TAXATION TITLE-LOCAL OPTION REPEAL OF I-105
SB 460	R 03/08 (H) TABLED IN COMMITTEE SPONSOR: SVRCEK, PAUL	04/12 (H) TAXATION TITLE-GENERALLY REVISE TAXATION OF PROPERTY
SB 461	AR 03/08 (S) HEARING SPONSOR: WATERMAN, MIGNON	04/24 TITLE-QUARTERLY PAYMENT OF ESTIMATED INDIVIDUAL INCOME TAXES--PENALTY ROOM 325; 8:00 A.M.
SB 462	R 03/08 (S) SIGNED BY PRESIDENT SPONSOR: MAZUREK, JOE	04/25 TITLE-REVISE TELEPHONE COMPANY LICENSE TAX
SB 463	R 03/11 (S) ADVERSE COM RPT ADOPTED	04/01 (S) TAXATION

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Halligan, Chairman, on March 14, 1991,
at 8:00 a.m.

ROLL CALL

Members Present:

Mike Halligan, Chairman (D)
Dorothy Eck, Vice Chairman (D)
Robert Brown (R)
Steve Doherty (D)
Delwyn Gage (R)
John Harp (R)
Francis Koehnke (D)
Thomas Towe (D)
Fred Van Valkenburg (D)
Bill Yellowtail (D)

Members Excused:

Gene Thayer (R)

Staff Present: Jeff Martin (Legislative Council).

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Announcements/Discussion: None

HEARING ON HOUSE BILL 193

Presentation and Opening Statement by Sponsor:

Representative Toole, District 60, sponsor, said the bill eliminates discrimination toward step-children in the inheritance tax laws. The natural child has been excluded and the adopted child has been entitled to the exclusion for more than ten years. The House Taxation Committee made some changes in the bill and as it was amended the only requirement is that the step-child/step-parent relationship must have originated on or before the step-child's 18th birthday.

Proponents' Testimony:

There were no proponents.

Mr. Meloy said this is a last ditch attempt to raise money and it is hoped it would encourage more participation.

Senator Halligan asked Senator Rea why he backed off the tax increase on the video games. By backing off, it puts the bill into competition with welfare services, higher education, and the general fund.

Senator Rea replied the industry and the individuals involved objected to the original provisions.

Closing by Sponsor:

Senator Rea closed said this is a vehicle which will allow investment in a Montana industry which is losing money and needs help. He asked the committee to support the bill.

HEARING ON SENATE BILL 445

Presentation and Opening Statement by Sponsor:

Senator Doherty, District 20, said this bill could be called a taxpayer's bill of rights if Senator Brown had not already usurped that title for his bill. The Department of Revenue developed the bill in order to bring a uniform review procedure to tax appeals. The bill would make the review procedure uniform for all taxes except inheritance, property and state taxes. It is important to note that most of the operative language is in Section 1 where there is provision for denial of refund. The "triggering mechanism" is on page 3 in which the taxpayers notifies the Department of his disagreement and the process then begins. The State Bar had concerns about the question of where the factual finding will be made and worked with the Department of Revenue in order to solve the problem through proposed amendments.

Proponents' Testimony:

Dave Woodgerd, Chief Counsel, Department of Revenue, said the bill has been developing over a long period of time and has been reviewed by many people involved in the tax appeal process. He presented a list of proposed amendments and the accompanying explanation to the committee (Exhibit #11).

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

There was a question from Senator Towe regarding refunds. Mr. Woodgerd responded that it had been reviewed and everyone was satisfied.

Closing by Sponsor:

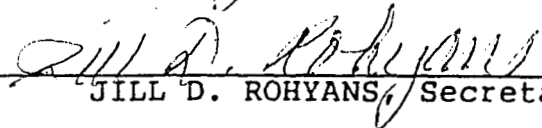
Senator Doherty closed.

ADJOURNMENT

Adjournment At: 10:00 a.m.



SENATOR MIKE HALLIGAN, Chairman



JILL D. ROHYANS, Secretary

MH/jdr

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 3/14/41

52nd LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN	X		
SEN. ECK	X		
SEN. BROWN	X		
SEN. DOHERTY	X		
SEN. GAGE	X		
SEN. HARP	X		
SEN. KOEHNKE	X		
SEN. THAYER			
SEN. TOWE	X		
SEN. VAN VALKENBURG	X		
SEN. YELLOWTAIL	X		

Each day attach to minutes.

DATE

3/11/91

COMMITTEE ON

TAXATION

SB 446, SB 445, HB 193, HB 422

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Sue Resch	Sue Resch Racing Stables	446	✓	
Man Nelson	MTBA	446	✓	
Jack Barnes		446		✓
Doug Barnes		446		✓
De Lorne Barnes		446		✓
Janet Bramblett	Self	446	✓	
Debbie Smithson	Self	446	✓	
Lamona Murphy	"		✓	
Bill Pison	✓		✓	
Rg Forster	HBPA	446	✓	
Lori Stewart	MTBA	446	✓	
Ken Nobles	SELF	446	✓	
John J. McNaught	STATE TAX APPEAL	422	✓	
Dave Woodgerd	DOR	445	✓	
Gary Moberg	DOR	193	✓	
Jay C. Clark	MARIAS FAIR	446	✓	
W. Hiler	HBPA	446	✓	
STEVE MELOY	Dept of Comm / self	446	✓	
Sid Erickson	Self	446	✓	
Man Munkres	Self	446	✓	
Daniel Bird	Self	446		
Gerome Lafel	Self	446	✓	
DON GUEEL	Self	446	✓	
Kay Foster	Biddings Chamber	446	✓	
William J. Allen	Self	446	✓	
Robert W. Wallen	Self	446	-	

AMENDMENTS TO SB 445

Introduced Copy (white)

Department of Revenue

SENATE TAXATION

EXHIBIT NO. 11

DATE

3/14/91

BILL NO.

SB 445

The following amendments are largely the result of comments received from the Tax and Probate Council of the State Bar. The major effect is to remove from the bill any amendments to the declaratory judgement section. The Council has agreed to form a subcommittee to review the issue of what forum is the most appropriate to consider tax issues. If the subcommittee is successful, legislation concerning this issue may be presented next session.

The rest of the amendments make minor language changes to clear up some of the procedures for review by the department. They also clear up some technical problems with the effective date.

1. Title, lines 10 and 11
Following: "TAXES;"
Strike: "CLARIFYING AND LIMITING THE USE OF DECLARATORY JUDGMENT ACTIONS IN TAX CASES;"
2. Title, line 12
Following: "SECTIONS"
Strike: "15-1-402,"
3. Title, line 13
Following: "15-1-705,"
Strike: "15-2-307,"
4. Page 2, lines 14 through 16
Following: "notice,"
Strike: the rest of the text through "due." on line 16
5. Page 2, line 17
Following: "limitations"
Insert: "regarding assessment of the tax"
6. Page 3, line 1
Following: "determination"
Insert: "under this section or file an appeal with the State Tax Appeal Board"
7. Page 3, line 4
Following: "assessed;"
Strike: "and"
8. Page 3, line 8
Following: "days"
Strike: "."
Insert: "; and"

19. Page 4, line 23
Following: "who"
Strike: "validly"
Following: "objects"
Strike: "to the administrator's decision"
Insert: "pursuant to (a)"
20. Page 4, line 25
Following: "other"
Strike: "required"
21. Page 5, line 1
Following: "within"
Strike: "90"
Insert: "60"
Following: "notice"
Insert: "from the taxpayer referred to in (a)"
22. Page 5, line 6
Following: "Within"
Strike: "90"
Insert: "60"
23. Page 5, line 23
Following: "decision."
Insert: "If an appeal is filed the administrator's decision shall be the final decision of the department."
24. Page 6, line 1
Following: "review"
Strike: "a final assessment or"
Insert: "the administrator's"
25. Page 6, line 13
Following: "reasonable"
Insert: "not to exceed 90 days except upon the mutual consent of both parties"
26. Page 6, line 13
Following: "Procedure"
Insert: "including 3 days additional time for mailing"
27. Page 6, lines 14 and 15
Following: "taxpayer"
Strike: "or by order of the department"
28. Page 6, line 15
Following: "shall"
Strike: "grant"
Insert: "consent to"

SB 445

SENATE JOURNAL
EXHIBIT NO. 11
DATE 3/14/91
FILE NO. SB 445

BY REQUEST OF THE DEPARTMENT OF REVENUE

Purpose

- 0 The purpose of this bill is to provide a simple, inexpensive, and effective method for taxpayers to have audit issues reviewed within the Department.
- 0 It also clarifies the Department's authority to enter into closing agreements.

Applicability

- 0 The proposed process does not apply to property taxes (with the exception of revised assessments of centrally assessed property) or inheritance taxes.
- 0 The normal property tax appeal process is not effected. Taxpayers will still appeal to the county board and the state tax appeal board as they do now.
- 0 In the case of inheritance tax cases, appeals will remain in the District Court.

Current Procedures

- 0 Currently there are a variety of review procedures which apply depending on the tax which is at issue.
- 0 For individual income tax there is a lengthy process of appeals within the Department. It is governed by the Montana Administrative Procedures Act. At the conclusion of the process the Director makes a final decision which may be appealed to the State Tax Appeal Board.
- 0 In the corporation and natural resource tax area there is a more informal process which is not governed by the Montana Administrative Procedures Act. However, there is no guarantee of a review by the Director's office.
- 0 In other tax areas no particular procedure is set forth and no one review process applies.

0 The advantages for the Department are:

- (1) There will be one system that applies to all taxes except property taxes and inheritance taxes;
- (2) It guarantees consistent treatment of taxpayers and issues; and
- (3) It will give the Department a better opportunity to resolve issues before they reach STAB or the courts.

Closing Agreements

- 0 These are simply the agreements which the Department and a taxpayer sign when an issue has been resolved.
- 0 Although the Department has entered into them for all of the different taxes, specific authority only exists for income and corporation taxes.
- 0 Subsection eight of section one provides this authority for all taxes administered by the Department.

MINUTES

**MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON TAXATION

Call to Order: By Senator Mike Halligan, on March 23, 1991, at 6:45 a.m

ROLL CALL

Members Present:

Mike Halligan, Chairman (D)
Dorothy Eck, Vice Chairman (D)
Robert Brown (R)
Steve Doherty (D)
Delwyn Gage (R)
John Harp (R)
Gene Thayer (R)
Thomas Towe (D)
Fred Van Valkenburg (D)
Bill Yellowtail (D)

Members Excused:

Francis Koehnke (D)

Staff Present: Jeff Martin (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: None

EXECUTIVE ACTION ON SENATE BILL 412

Amendments, Discussion, and Votes:

Committee researcher Jeff Martin discussed the proposed amendments and "gray bill" (Exhibits #1 and #2). He said the majority of the amendments apply to the appeal and review process.

Senator Harp moved to adopt the amendments as per Exhibit #1 (see attached standing committee report for final form).

Mr. Woodgerd, Department of Revenue, referring to amendment #10, said it relates to the year 1993, which is the year before the new reappraised values go into effect. Two sessions ago the legislature established 1993 as the delay year. The new values from the reappraisal will be available then, but the one year

Senator Eck agreed, but said she did feel the lodging tax was the proper funding mechanism for the capital tours.

The motion that SB 411 Do Pass FAILED on a roll call vote (attached).

Senator Yellowtail moved SB 411 Do Not Pass. The motion CARRIED on a roll call vote (attached).

EXECUTIVE ACTION ON SENATE BILL 416

Discussion:

Senator Gage asked if the committee wanted to revise the credits in the bill as there is not enough time to have another hearing on the bill.

Senator Eck wondered if it should be put into the energy plan.

Senator Gage asked if it would be proper to table the bill.

Senator Harp asked if Senator Williams had proposed any amendments.

Senator Halligan replied Senator Williams had said he would be willing to cut the credit in half to \$1600 with \$400 per year the maximum credit that could be claimed for four years.

Senator Van Valkenburg suggested the best place to leave the bill is in the category of bills heard but not acted upon.

The committee agreed not to act on the bill at this time.

EXECUTIVE ACTION ON SENATE BILL 445

Amendments, Discussion, and Votes:

Senator Doherty moved to amend SB 445 as per the Bar Association amendments (Exhibit #3).

Dave Woodgerd, Department of Revenue, said these are all essentially clean-up amendments agreed to by the Tax and Probate Council of the State Bar and the Department of Revenue. The major change concerns lawsuits filed directly in District Court concerning taxes. The language concerning court and tax issues has been taken out for further study.

The motion to amend the bill CARRIED.

Recommendation and Vote:

Senator Doherty moved SB 445 Do Pass As Amended. The motion CARRIED unanimously.

EXECUTIVE ACTION ON SENATE BILL 436Amendments, Discussion, and Votes:

Senator Doherty submitted proposed amendments to the bill (Exhibit #4).

Jeff Martin said the amendments put Class 14 property, farmsteads and agricultural improvements, into Class 4 property which would require the one acre of real property currently valued as agricultural to be valued at market value.

Senator Doherty moved the amendments. He said "a house is a house is a house" and it should be taxed at 3.86% the same as his house is taxed at 3.86%.

Senator Brown said there is some history here. A farm unit is an agricultural unit which includes the house, the buildings, as well as the acreage. If there is a separation of the house from the acreage, the unit has been destroyed. Appraisers have arbitrarily assessed agricultural homes differently than homes in cities due to that classification.

Senator Towe said the legislature put that into law about ten years ago. It was determined that a house in the country does not have the same value as a house in town because there is not the market for it there. Therefore, the house value has to be reduced to a certain extent to reflect that the market value is not the same.

Senator Harp said the house would be assessed at the right level for the location. He said there is a lot of abuse going on with the little ranchettes and 20 acre agriculture exemptions that, in reality, have little to do with agriculture at all. People in urban areas are not being treated fairly in comparison.

Senator Gage said his conversations with appraisers in the field and with some of the DOR representatives led him to the understanding that even though statute says market value for appraisal, the cost basis is being used. The property without the land does not have the value. He said there is no doubt abuse going on by those who are charading as farm people with the very small acreages. However, in eastern Montana and along the Highline where people are extremely rural and isolated, the homes certainly should not be appraised on market value.

SENATE STANDING COMMITTEE REPORT

Page 1 of 4
March 23, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 445 (first reading copy -- white), respectfully report that Senate Bill No. 445 be amended and as so amended do pass:

1. Title, lines 10 and 11.

Strike: "CLARIFYING" on line 10 through "CASES;" on line 11

2. Title, line 12.

Strike: "15-1-402,"

3. Title, line 13.

Strike: "15-2-307,"

4. Title, line 19.

Following: "DATES AND"

Insert: "AN"

Following: "APPLICABILITY"

Strike: "DATES"

Insert: "DATE"

5. Page 2, lines 14 through 16.

Following: "notice" on line 14

Strike: ", " through "due" on line 16

6. Page 2, line 17.

Following: "limitations"

Insert: "regarding the assessment of the tax"

7. Page 3, line 1.

Following: "determination"

Insert: "under this section or to file an appeal with the state tax appeal board"

8. Page 3, line 4.

Strike: "and"

9. Page 3, line 8.

Following: "days"

Insert: "; and

(vi) that the notice stops the running of the statute of limitations regarding the assessment of the tax"

10. Page 3, line 17.

Following: "review"

Insert: "under this section"

Following: "or"

Insert: "to"

11. Page 3, line 18.

Following: "appeal"

Insert: "to the state tax appeal board"

12. Page 3, line 21.

Strike: "validly"

Following: "department"

Insert: "pursuant to subsection (3)(a)"

13. Page 3, line 24.

Strike: "required"

14. Page 4, line 1.

Following: "notice"

Insert: "referred to in subsection (3)(a)"

15. Page 4, line 6.

Strike: "30"

Insert: "60"

16. Page 4, line 7.

Following: "objections,"

Insert: "as provided in subsection (3)(b)."

17. Page 4, lines 13 through 15.

Strike: "Within" on line 13 through "department" on line 15

Insert: "A taxpayer shall notify the department in writing that
he objects to the administrator's decision within 30 days
from the date that the decision is mailed,"

18. Page 4, line 20.

Following: "review"

Insert: "or appeal"

19. Page 4, line 23.

Strike: "validly"

Following: "decision"

Insert: "pursuant to subsection (4)(a)"

20. Page 4, line 25.

Strike: "required"

21. Page 5, line 1.

Strike: "90"

Insert: "60"

22. Page 5, line 6.

Strike: "90"

Insert: "60"

23. Page 5, line 23.

Following: "decision."

Insert: "If an appeal is filed, the administrator's decision is
the final decision of the department."

24. Page 6, line 1.

Strike: "a final assessment or"

Insert: "the administrator's"

25. Page 6, line 12.

Following: "in"

Insert: "Rule 6 of"

26. Page 6, lines 14 and 15.

Strike: "or by order of the department"

27. Page 6, line 15.

Strike: "grant"

Insert: "consent to"

28. Page 6, line 16.

Following: "requests"

Insert: ", not to exceed 90 days except by the mutual consent of
both parties,"

29. Page 7, line 8 through page 12, line 19.

Strike: section 2 in its entirety

Renumber: subsequent sections.

30. Page 14, lines 10 and 11.

Strike: "after" on line 10 through "notice" on line 11

31. Page 14, line 19 through page 15, line 3.

Strike: subsection (4) in its entirety.

32. Page 16, lines 1 through 8.

Strike: section 6 in its entirety

Renumber: subsequent sections

33. Page 46, line 8.

Strike: "(1)"

34. Page 46, line 10

Strike: "preliminary assessments"

Insert: "notices of additional tax"

35. Page 46, lines 12 and 13.

Strike: subsection (2) in its entirety

36. Page 46, line 16.

Following: "act"

Insert: "]"

Strike: "subsection (16) of"

Insert: "["

Signed: _____
Mike Halligan, Chairman

111 2-25-91
Amd. Coord.

SB 3-23
Sec. of Senate

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 3/23/91

52-114 LEGISLATIVE SESSION _____

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN	X		
SEN. ECK	X		
SEN. BROWN	X		
SEN. DOHERTY	X		
SEN. GAGE	X		
SEN. HARP	X		
SEN. KOEHNKE			X
SEN. THAYER	X		
SEN. TOWE	X		
SEN. VAN VALKENBURG	X		
SEN. YELLOWTAIL	X		

Each day attach to minutes.

SENATE JOURNAL
EXHIBIT NO. 3
DATE 3/23/91
BILL NO. SB 9125

Amendments to Senate Bill No. 445
First Reading Copy

Requested by Department of Revenue
For the Committee on Taxation

Prepared by Jeff Martin
March 18, 1991

1. Title, lines 10 and 11.
Strike: "CLARIFYING" on line 10 through "CASES," on line 11
2. Title, line 12.
Strike: "15-1-402,"
3. Title, line 13.
Strike: "15-2-307,"
4. Title, line 19.
Following: "DATES AND"
Insert: "AN"
Following: "APPLICABILITY"
Strike: "DATES"
Insert: "DATE"
5. Page 2, lines 14 through 16.
Following: "notice" on line 14
Strike: ", " through "due" on line 16
6. Page 2, line 17.
Following: "limitations"
Insert: "regarding the assessment of the tax"
7. Page 3, line 1.
Following: "determination"
Insert: "under this section or to file an appeal with the state
tax appeal board"
8. Page 3, line 4.
Strike: "and"
9. Page 3, line 8.
Following: "days"
Insert: "; and
(vi) that the notice stops the running of the statute of
limitations regarding the assessment of the tax"
10. Page 3, line 17.
Following: "review"
Insert: "under this section"
Following: "or"
Insert: "to"
11. Page 3, line 18.
Following: "appeal"

Insert: "to the state tax appeal board"

12. Page 3, line 21.

Strike: "validly"

Following: "department"

Insert: "pursuant to subsection (3)(a)"

13. Page 3, line 24.

Strike: "required"

14. Page 4, line 1.

Following: "notice"

Insert: "referred to in subsection (3)(a)"

15. Page 4, line 6.

Strike: "30"

Insert: "60"

16. Page 4, line 7.

Following: "objections,"

Insert: "as provided in subsection (3)(b),"

17. Page 4, lines 13 through 15.

Strike: "Within" on line 13 through "department" on line 15

Insert: "A taxpayer shall notify the department in writing that
he objects to the administrator's decision within 30 days
from the date that the decision is mailed,"

18. Page 4, line 20.

Following: "review"

Insert: "or appeal"

19. Page 4, line 23.

Strike: "validly"

Following: "decision"

Insert: "pursuant to subsection (4)(a)"

20. Page 4, line 25.

Strike: "required"

21. Page 5, line 1.

Strike: "90"

Insert: "60"

22. Page 5, line 6.

Strike: "90"

Insert: "60"

23. Page 5, line 23.

Following: "decision."

Insert: "If an appeal is filed, the administrator's decision is
the final decision of the department."

24. Page 6, line 1.

Strike: "a final assessment or"

Insert: "the administrator's"

25. Page 6, line 12.

Following: "in"

Insert: "Rule 6 of"

26. Page 6, lines 14 and 15.

Strike: "or by order of the department"

27. Page 6, line 15.

Strike: "grant"

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Strike: section 2 in its entirety

Renumber: subsequent sections.

30. Page 14, lines 10 and 11.

Strike: "after" on line 10 through "notice" on line .11

31. Page 14, line 19 through page 15, line 3.

Strike: subsection (4) in its entirety.

32. Page 16, lines 1 through 8.

Strike: section 6 in its entirety

33. Page 46, line 8.

Strike: "(1)"

34. Page 46, line 10

Strike: "preliminary assessments"

Insert: "notices of additional tax"

35. Page 46, lines 12 and 13.

Strike: subsection (2) in its entirety

36. Page 46, line 16.

Following: "act"

Insert: "]"

Strike: "subsection (16) of"

Insert: "["

MONTANA LEGISLATIVE COUNCIL BILL STATUS SYSTEM
 FINAL COMMITTEE REPORT OF REFERRED BILLS
 COMMITTEE--(H) TAXATION

PAGE NBR..... 167
 RUN TIME13:25
 RUN DATE.... 06/04/91

CHAIRMAN--DAN HARRINGTON
 NORMAL SCHEDULE==> SITE: ROOM 437

DAYS: M,T,W,T,F

TIME: 8:00 A.M.

SECRETARY--MONA SPAULDING

---BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES-----	COMMITTEE ACTION-----	REREFERRED TO COMM----	DATE OUT-
SB0384	3/26	4/03		CONCUR		4/11
LYNCH, J.D.			REFERENDUM TO IMPOSE A STATEWIDE 2-MILL LEVY FOR VOCATIONAL & TECH EDUCATION			
SB0390	3/04	4/05		CONCUR AS AMENDED		4/13
VAN VALKENBURG, FRED			MAKE CERTAIN PERSONAL PROPERTY ELIGIBLE FOR PROPERTY TAX RELIEF			
SB0411	3/27	4/10		TABLED ON 04/12		
FRITZ, HARRY			EXPAND USE OF BED TAX BY HISTORICAL SOCIETY			
SB0412	3/26	4/03		CONCUR AS AMENDED		4/13
CRIPPEN, BRUCE			PROVIDE FOR THE EQUALIZATION OF RESIDENTIAL PROPERTY			
SB0415	3/16	4/09		CONCUR AS AMENDED		4/13
VAUGHN, ELEANOR			STATE PARKS RECREATIONAL VEHICLE FEE FOR RV FACILITIES & SERVICES AT ST PARK			
SB0416	4/02	4/10		CONCUR AS AMENDED		4/13
WILLIAMS, BOB			ALLOW A TAX CREDIT FOR THE INSTALLATION OF A GEOTHERMAL DEVICE			
SB0428	4/04	4/10		TABLED ON 04/12		
NATHE, DENNIS			ALLOCATE MOTOR FUEL TAXES TO CERTAIN RESERVATIONS			
SB0435	4/04	4/11		CONCUR AS AMENDED		4/13
BROWN, BOB			REFERENDUM ON 5% INCOME AND CORPORATE SURTAX TO SUPPORT UNIVERSITY SYSTEM			
SB0436	3/27	4/10		CONCUR AS AMENDED		4/13
BROWN, BOB			RESTRUCTURE PROPERTY TAX CLASSIFICATION BY CONSOLIDATING CLASSES			
SB0438	3/04	4/09		CONCUR		4/13
BROWN, BOB			EXEMPT FROM BENEFICIAL USE TAX RAILROAD TRACKS OWNED BY THE UNITED STATES			
SB0445	3/27	4/10		CONCUR AS AMENDED		4/13
DOHERTY, STEVE			PROVIDE UNIFORM TAX REVIEW PROCESS FOR MOST TAXES MANAGED BY DEPT OF REVENUE			

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON TAXATION

Call to Order: By CHAIRMAN HARRINGTON, on April 10, 1991, at
9:00 AM

ROLL CALL

Members Present:

Dan Harrington, Chairman (D)
Bob Ream, Vice-Chairman (D)
Ben Cohen, Vice-Chair (D)
Ed Dolezal (D)
Jim Elliott (D)
Orval Ellison (R)
Russell Fagg (R)
Mike Foster (R)
Bob Gilbert (R)
Marian Hanson (R)
David Hoffman (R)
Jim Madison (D)
Ed McCaffree (D)
Bea McCarthy (D)
Tom Nelson (R)
Mark O'Keefe (D)
Bob Raney (D)
Ted Schye (D)
Barry "Spook" Stang (D)
Fred Thomas (R)
Dave Wanzenried (D)

Staff Present: Lee Heiman, Legislative Council
Julia Tonkovich, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

HEARING ON SB 411

Opening Statement:

SENATOR HARRY FRITZ explained the bill, which alters the permissible use of bed tax money by the Montana Historical Society. It does not change the amount of money that the Historical Society gets from the tax, or the structure of the tax itself. The Historical Society has been awarded 1% of bed tax money since the inception of the tax for the purpose of

subcommittee can amend this portion of the statute into the bill so the Chamber of Commerce can continue its project.

Opponents:

Dan Whyte for Ward Shanahan, Stillwater Mining Company, noted that one of the "obsolete" classes of property which the bill will eliminate is Class 18 property. Nonproductive mining claims are not obsolete, and should be placed into Class 3 property, as HB 1004 attempted to do. Exploration and development are important to the mining industry; the exploration part of mining is by definition "nonproductive." Eliminating this class of property would stymie any exploration or development of mining claims, seeing as there would no longer be a tax break for this class of property. Consolidating nonproductive mining claims into Class 3 property also stays with the intent of the legislation in that it will not create a new class, but merely consolidates existing classes.

Brendan Beatty, Montana Association of Realtors, noted that subheading 2 of the fiscal note consolidates Class 19 property (nonproductive real estate) into Class 4, residential property. Currently, nonproductive real estate is taxed at 2% of its market value; residential property is taxed at 3.86% of its market value. This is a substantial raise in tax. By definition, nonproductive real estate is a piece of land that has been precluded from development; the land is not worth much because nothing can be done with it. DOR has said that the property will be appraised down to get rid of the revenue impact; however, the bill does not require this to be done. Such a large increase in tax should be avoided.

Questions:

REP. HOFFMAN asked what the impact of the amendment **Mr. Whyte** proposed would be. **Judy Rippingale, DOR**, said the staff will look at all the nonproductive mining claims individually to ensure that they are at the lowest values possible. There may be some land that will actually have a tax increase, but the amount of money raised will be less than \$3000/year.

REP. HOFFMAN asked why Class 18 property was not moved into Class 3, since nonproductive mining claims and nonproductive real estate are virtually the same thing. **Ms. Rippingale** said the department has no objection to consolidating Class 18 property with Class 3.

Closing Statement:

SEN. BROWN said moving these two classes into Class 3 property would not damage the bill, as the total number of classes would remain the same.

Opening Statement:

SENATOR STEVE DOHERTY explained the bill, which was requested by the Department of Revenue. SB 445 attempts to bring uniformity to the current tax appeals procedure in Montana. This bill will make appeals rules easier to understand.

Proponents:

Dave Woodgerd, DOR, explained the bill further. Currently, there are different rules throughout the department for appealing different types of taxes. This bill creates one process which will be simple and inexpensive for both taxpayers who wish to appeal and administrators in the department. After consulting with the State Bar, the department had concerns about the language relating to the appeals process in district court; that language has subsequently been taken out. The State Bar is in favor of the bill. The amendments clarify some of the bill's language. Exhibits 9 - 12 The bill will not change property taxes.

Opponents: None

Questions:

REP. COHEN said the title includes property taxes, and said the property tax subcommittee will want to review those sections dealing with property tax appeals.

Closing Statement:

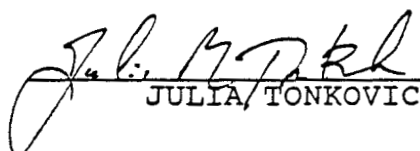
SEN. DOHERTY said the State Bar Association and DOR worked together to come to an agreement with the tax practitioners in Montana to make the tax appeals process more uniform throughout the state.

ADJOURNMENT

Adjournment: 10:50 AM



DAN HARRINGTON, Chair



JULIA TONKOVICH, Secretary

DH/jmt

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL

DATE 4/10/91

NAME	PRESENT	ABSENT	EXCUSED
REP. DAN HARRINGTON	X		
REP. BEN COHEN, VICE-CHAIRMAN	X		
REP. BOB REAM, VICE-CHAIRMAN	X		
REP. ED DOLEZAL	X		
REP. JIM ELLIOTT	X		
REP. ORVAL ELLISON	X		
REP. RUSSELL FAGG	X		
REP. MIKE FOSTER	X		
REP. BOB GILBERT	X		
REP. MARIAN HANSON	X		
REP. DAVID HOFFMAN	X		
REP. JIM MADISON	X		
REP. ED MCCAFFREE	X		
REP. BEA MCCARTHY	X		
REP. TOM NELSON	X		
REP. MARK O'KEEFE	X		
REP. BOB RANEY	X		
REP. TED SCHYE	X		
REP. BARRY "SPOOK" STANG	X		
REP. FRED THOMAS	X		
REP. DAVE WANZENRIED	X		

EX-137 9
4/10/91
SB445

CROWLEY, HAUGHEY, HANSON, TOOLE & DIETRICH

BRUCE R. TOOLE
JOHN M. DIETRICH
LOUIS R. MOORE
GARELD F. KRIEG
ARTHUR F. LAHEY, JR.
MYLES J. THOMAS
GEORGE C. SALTWORTH
DAVID L. JOHNSON
KEHR WILSON
ROBERT EDD LEE
HERBERT I. PIERCE, III
RONALD R. LODGERS
CHARLES R. CASHMORE
LAWRENCE B. COZZENS
STEVEN RUFFATTO
ALLAN L. KARELL
JAMES P. SITES
CAROLYN S. OSTBY
STEVEN J. LEHMAN
LAURA A. MITCHELL
SHERRY SCHEEL MATTEUCCI
CHRISTOPHER WANGEN, JR.
MICHAEL E. WEBSTER
DANIEL N. McLEAN

ATTORNEYS AT LAW
500 TRANSWESTERN PLAZA
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P.O. BOX 2529
BILLINGS, MONTANA 59103-2529
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FAX (406) 259-4159
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OF COUNSEL
JAMES M. HAUGHEY
NORMAN HANSON

RECEIVED
DALE CROWLEY
STUART W. CONNER

ROBERT G. MICHELOTTI, JR.
JOHN B. ALEXANDER
DONALD L. HARRIS
WILLIAM D. LAMON, III
WILLIAM J. MATTIX
PETER F. HASEIN
MICHAEL S. DOCKERY
WALTON W. GOODRICH
MARY SCHEIN
PATRICIA KARELL
JOHN T. DYRE
DENNIS NETT-SIMMONS
STAPON NOVAK
ERIC K. ANDERSON
BRUCE A. FREDRICKSON
JOHN E. BOUTER
RENEE L. MOONEY
JANICE L. REINBERG
JOE C. MAYNARD, JR.
JOHN R. LEE
STEVEN R. MILCH
MARY E. DUNCAN
SCOTT M. HEARD
LEONARD H. SMITH

DIRECT DIAL NUMBER

March 12, 1991

Mr. David W. Woodgerd
Chief Legal Counsel
Office of Legal Affairs
Department of Revenue
Mitchell Building
Helena, MT 59620-2720

RECEIVED

MAR 13 1991

OFFICE OF LEGAL
AFFAIRS

Re: S.B. 445

Dear Dave:

The purpose of this letter is to memorialize the agreement which was reached yesterday between yourself, acting on behalf of the Department of Revenue, and Kristen Juras and myself, acting on behalf of the Council of the Montana State Bar Section on Taxation and Probate Law, relating to S.B. 445.

We agreed that:

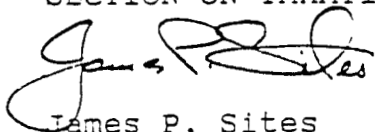
- (1) The Department of Revenue will request the Sponsors of S.B. 445 to strike from the bill all of the provisions relating to the revision of the declaratory judgment procedures now codified at MCA §15-1-406, et seq., other than the revision found on line 5 of page 14 of S.B. 445.
- (2) The Council of the Montana State Bar Section on Taxation and Probate Law will not object to the other provisions of the bill, as modified to take into account the proposed changes which you, Kristen and I discussed yesterday.
- (3) The Council of the Montana State Bar Section on Taxation and Probate Law will support a future joint effort between the Department of Revenue and the Council to discuss possible changes to MCA §15-1-406. We look forward to meeting with you about this matter already this fall.

Mr. David W. Woodgerd
March 12, 1991
Page 2

We understand that you will make the necessary changes to S.B. 445 to implement this agreement and will do your best to fax the amendments to Kristen and me by 5:00 o'clock p.m. on Tuesday, March 12, 1991.

Sincerely,

FOR THE COUNCIL OF THE MONTANA STATE BAR
SECTION ON TAXATION AND PROBATE LAW



James P. Sites
Vice Chair

cc: Senator Brown
Senator Doherty
Senator Eck
Senator Gage
Senator Halligan
Senator Harp
Senator Koehnke
Senator Mazurek
Senator Thayer
Senator Towe
Senator Van Valkenburg
Senator Yellowtail

Mr. Denis Adams
Mr. Rick Bartos
Mr. George Bennett
Mr. Gary Bjelland
Mr. Terry Cosgrove
Mr. William Driscoll
Mr. Robert Goff
Ms. Kristen Juras
Mr. Louis Moore
Mr. John McNaught
Mr. Ward Shanahan
Mr. Peter Stanley

BY REQUEST OF THE DEPARTMENT OF REVENUE
Third Reading (blue copy)

Purpose

- 0 The purpose of this bill is to provide a simple, inexpensive, and effective method for taxpayers to have audit issues reviewed within the Department.
- 0 It also clarifies the Department's authority to enter into closing agreements.

Applicability

- 0 The proposed process does not apply to property taxes (with the exception of revised assessments of centrally assessed property) or inheritance taxes.
- 0 The normal property tax appeal process is not effected. Taxpayers will still appeal to the county board and the state tax appeal board as they do now.
- 0 In the case of inheritance tax cases, appeals will remain in the District Court.

Current Procedures

- 0 Currently there are a variety of review procedures which apply depending on the tax which is at issue.
- 0 For individual income tax there is a lengthy process of appeals within the Department. It is governed by the Montana Administrative Procedures Act. At the conclusion of the process the Director makes a final decision which may be appealed to the State Tax Appeal Board.
- 0 In the corporation and natural resource tax area there is a more informal process which is not governed by the Montana Administrative Procedures Act. However, there is no guarantee of a review by the Director's office.
- 0 In other tax areas no particular procedure is set forth and no one review process applies.

Ex. 10
4/10/91
SB 445

0 The advantages for the Department are:

- (1) There will be one system that applies to all taxes except property taxes and inheritance taxes;
- (2) It guarantees consistent treatment of taxpayers and issues; and
- (3) It will give the Department a better opportunity to resolve issues before they reach STAB or the courts.

Closing Agreements

- 0 These are simply the agreements which the Department and a taxpayer sign when an issue has been resolved.
- 0 Although the Department has entered into them for all of the different taxes, specific authority only exists for income and corporation taxes.
- 0 Subsection eight of section one provides this authority for all taxes administered by the Department.

AMENDMENTS TO SB 445
3rd reading copy (blue)

EXHIBIT 11
4/10/91
SB 445

Prepared by the Department of Revenue

These amendments correct errors in the Senate amendments to this bill. The amendments were suggested by the state bar to clarify the procedure for reviewing tax assessments and refund claims within the Department of Revenue.

1. Page 5, line 12
Following: "notice"
Insert: "referred to in subsection (4) (a)"
2. Page 6, line 16
Following: "reasonable"
Insert: "not to exceed 90 days except upon the mutual consent of both parties"
3. Page 6, line 25
Following: "Procedure"
Insert: "including additional time for mailing"
4. Page 7, line 3
Following: "requests,"
Strike: ", NOT TO EXCEED 90 DAYS EXCEPT UPON THE
MUTUAL CONSENT OF BOTH PARTIES,"

Proposed Review Procedure

- 0 The proposed review procedure is in section one of the bill.
- 0 It combines parts of the current procedures for different taxes into one standard procedure for all of these taxes.
- 0 A taxpayer will be able to be heard at the Division Administrator level and the Director's level with a minimum of effort and expense.
- 0 It is not formal or governed by the Montana Administrative Procedure Act rules but guarantees access to the Director's office.
- 0 The taxpayer is simply required to notify the Department in writing that he disagrees with the Department's action.
- 0 The taxpayer can present his arguments to the Division Administrator by telephone, by letter, or at an informal conference.
- 0 The same opportunity is available at the Director's office level.
- 0 The taxpayer can then appeal to the State Tax Appeal Board where a more formal hearing will take place.
- 0 Section one requires the Department to give full notice of the appeal process when an assessment is sent out or a refund is denied.

Advantages

- 0 The advantages of this process for the taxpayer are:
 - (1) It is simple and inexpensive for the taxpayer;
 - (2) It guarantees the taxpayer will be notified of his appeal rights and the consequences of not appealing;
 - (3) It guarantees the taxpayer that management level employees of the Department will review the auditor's decision; and
 - (4) It sets time limits for decisions by the Department so the process will be completed in a timely manner.

Ex. 12
4/10/91
SB 445

0 The advantages for the Department are:

- (1) There will be one system that applies to all taxes except property taxes and inheritance taxes;
- (2) It guarantees consistent treatment of taxpayers and issues; and
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- 0 Subsection eight of section one provides this authority for all taxes administered by the Department.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

TAXATION COMMITTEE BILL NO. SB 445
 DATE 4/10/91 SPONSOR(S) DOHERTY

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Steve Doherty	SD# 20	445		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By CHAIRMAN HARRINGTON, on April 12, 1991, at
9:00 AM

ROLL CALL

Members Present:

Dan Harrington, Chairman (D)
Bob Ream, Vice-Chairman (D)
Ben Cohen, Vice-Chair (D)
Ed Dolezal (D)
Jim Elliott (D)
Orval Ellison (R)
Russell Fagg (R)
Mike Foster (R)
Bob Gilbert (R)
Marian Hanson (R)
David Hoffman (R)
Jim Madison (D)
Ed McCaffree (D)
Bea McCarthy (D)
Tom Nelson (R)
Mark O'Keefe (D)
Bob Raney (D)
Ted Schye (D)
Barry "Spook" Stang (D)
Fred Thomas (R)
Dave Wanzenried (D)

Staff Present: Lee Heiman, Legislative Council
Julia Tonkovich, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

DISCUSSION ON SB 115

Mr. Heiman explained the subcommittee amendments, which ensure that the local property tax is a uniformly levied property tax -- one could not choose to levy it on certain properties and not on others. Amendments 3-5 provide a statutory appropriation to the Department of Revenue (DOR) for the administrative fee collected in the administering of a local option income tax if one is imposed. **Exhibit 1**

DISCUSSION ON SB 445

Motion/Vote: REP. MCCARTHY MOVED SB 445 BE CONCURRED IN AS AMENDED. Motion carried unanimously. Exhibit 15

DISCUSSION ON SB 411

REP. REAM said the Income Tax Subcommittee recommended tabling the bill on an 8 to 1 vote. The funds have been misused for the last four years, and the subcommittee did not feel it should support this action. In 1987, when the bed tax was imposed, the Governor's Office told the Historical Society it should continue the tours, but did not provide a funding source. The society began using their portion of the bed tax money to run the tours, which cost approximately \$20,000/year. Last fall, they requested that the tour program be included in the executive budget, and it was not. SEN. FRITZ had indicated he would make an appeal to the finance committee if the bill does not pass; if this fails, the program is up in the air, and the Governor will have to find the money.

REP. HOFFMAN asked for clarification of "misused." REP. REAM said the subcommittee decided the funds had been illegally used, since the tour program does not fit in with the definition of installation or maintenance of roadside historical signs.

REP. COHEN said the members of the tourism advisory council are beginning to realize they cannot continue to take a negative approach to all other tourism-related uses of the bed tax monies. As the money available expands, the council will need to be more open about potential tourism-related uses, or the entire fund will be put at risk.

REP. RANEY said since the tours take place in Helena, they should be paid using a Helena fund. If Helena's region wants to promote tourism in Helena by sponsoring tours of the Capitol, it should provide the funding. The state tourism fund should not be used to promote tourism specific to Helena only.

Motion/Vote: REP. THOMAS MOVED SB 411 BE TABLED. Motion carried 17 to 3, with REPS. FAGG, O'KEEFE, and SCHYE voting no.

DISCUSSION ON SB 416

Motion/Vote: REP. THOMAS moved to adopt Amendments 1-5. Motion carried unanimously.

REP. O'KEEFE spoke against the bill, saying it will cost the General Fund \$60,000/year for 5 years for a total cost of \$300,000; the General Fund cannot afford this.

Motion/Vote: REP. THOMAS MOVED SB 416 BE CONCURRED IN AS AMENDED. Motion carried 19 to 1 with REP. O'KEEFE voting no.

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL

DATE 4/12/91

NAME	PRESENT	ABSENT	EXCUSED
REP. DAN HARRINGTON	X		
REP. BEN COHEN, VICE-CHAIRMAN	X		
REP. BOB REAM, VICE-CHAIRMAN	X		
REP. ED DOLEZAL	X		
REP. JIM ELLIOTT	X		
REP. ORVAL ELLISON	X		
REP. RUSSELL FAGG	X		
REP. MIKE FOSTER	X		
REP. BOB GILBERT	X		
REP. MARIAN HANSON	X		
REP. DAVID HOFFMAN	X		
REP. JIM MADISON	X		
REP. ED MCCAFFREE	X		
REP. BEA MCCARTHY	X		
REP. TOM NELSON	X		
REP. MARK O'KEEFE	X		
REP. BOB RANEY	X		
REP. TED SCHYE	X		
REP. BARRY "SPOOK" STANG	X		
REP. FRED THOMAS	X		
REP. DAVE WANZENRIED	X		

EXHIBIT 15
DATE 4/12/91
HB SB 445

Amendments to Senate Bill No. 445
Third Reading Copy

For the Committee on Taxation

Prepared by Lee Heiman
April 10, 1991

1. Page 5, line 12.
Following: "notice"
Insert: "referred to in subsection (4)(a)"
2. Page 6, line 16.
Following: "reasonable"
Insert: "not to exceed 90 days except by the mutual consent of
both parties"
3. Page 6, line 25.
Following: "Procedure"
Insert: ", including additional time for mailing"
4. Page 7, lines 3 and 4.
Strike: "NOT TO EXCEED 90 DAYS EXCEPT BY THE MUTUAL CONSENT OF
BOTH PARTIES,"

430
4-12-91
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HOUSE STANDING COMMITTEE REPORT

April 12, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that Senate Bill 445 (third reading copy -- blue) be concurred in as amended.

Signed: _____
Dan Harrington, Chairman

Carried by: Rep. McCarthy

And, that such amendments read:

1. Page 5, line 12.

Following: "notice"

Insert: "referred to in subsection (4) (a)"

2. Page 6, line 16.

Following: "reasonable"

Insert: "not to exceed 90 days except by the mutual consent of both parties"

3. Page 6, line 25.

Following: "Procedure"

Insert: ", including additional time for mailing"

4. Page 7, lines 3 and 4.

Strike: "NOT TO EXCEED 90 DAYS EXCEPT BY THE MUTUAL CONSENT OF BOTH PARTIES,"

GOVERNOR'S AMENDMENTS TO
SENATE BILL 445
(REFERENCE COPY, AS AMENDED)
April 23, 1991

1. Page 45, lines 9 and 10.
Following: line 8
Strike: line 9 through "interest" on line 10
2. Page 46, lines 8 and 9.
Following: line 7
Strike: line 8 through "interest on line 9

GOV. Amend
SB 445

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AN ACT PROVIDING MONTANA TAXPAYERS WITH A SIMPLE, INEXPENSIVE, AND EFFECTIVE TAX REVIEW PROCESS FOR TAXES ADMINISTERED BY THE DEPARTMENT OF REVENUE EXCEPT PROPERTY, INHERITANCE, AND ESTATE TAXES BUT INCLUDING REVISED ASSESSMENTS OF CENTRALLY ASSESSED PROPERTY TAXES; PROVIDING AUTHORITY TO ENTER INTO CLOSING AGREEMENTS; AMENDING SECTIONS 15-1-403, 15-1-406, 15-1-705, 15-8-601, 15-23-104, 15-25-114, 15-30-148, 15-30-149, 15-31-503, 15-31-532, 15-31-701, 15-35-112, 15-36-105, 15-36-113, 15-37-110, 15-37-114, 15-37-210, 15-38-110, 15-51-109, 15-53-105, 15-55-106, 15-58-110, 15-59-112, 15-59-212, 15-65-115, 69-1-225, AND 69-1-226, MCA; REPEALING SECTION 15-55-107, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Uniform tax review procedure -- notice -- appeal.

(1) The department shall provide a uniform tax review procedure for all taxpayers, except as provided in subsection (1)(a).

(a) The tax review procedure described in this section applies to all taxes administered by the department except inheritance taxes, estate taxes, and property taxes. The procedure applies to any revised assessment of centrally assessed property taxed pursuant to chapter 23.

(b) The term "taxpayers", as used in this section, includes all persons determined by the department to have a potential tax liability.

(2) (a) If the department determines that a request for a refund should be denied in whole or part, it shall notify the taxpayer of the determination. If the department determines that a person has failed to pay a sufficient tax, interest, or penalty, it shall provide the taxpayer with notice. The notice stops the running of any applicable statute of limitations regarding the assessment of the tax.

(b) A notice under this section must clearly state:

(i) the reasons for the department's determination that a refund is not due or that tax plus interest and penalty, if any, is due;

(ii) the taxpayer's right to a review by the department and his right to appeal after a final department decision;

(iii) failure to notify the department within 30 days will result in a forfeiture of the taxpayer's right to contest the department's determination under this section or to file an appeal with the state tax appeal board;

(iv) that the taxpayer has 30 days to either notify the department in writing that he does not agree with an assessment or pay the amount assessed;

(v) that a warrant for distraint placing a lien on the taxpayer's property may be issued unless he notifies the department that he disagrees with an assessment or pays within 30 days; and

(vi) that the notice stops the running of the statute of

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limitations regarding the assessment of the tax.

(3) (a) A taxpayer shall notify the department, in writing, that he objects to the determination within 30 days from the date the notice is mailed. The notification by the taxpayer is not required to specify the reasons for the disagreement or be in any particular form. If the taxpayer does not notify the department within 30 days:

(i) an assessment becomes final and the assessed tax, plus any interest and penalty, must be paid;

(ii) the taxpayer waives any further right to review under this section or to appeal to the state tax appeal board; and

(iii) a warrant for distraint may be issued without further opportunity to be heard on the assessment.

(b) A taxpayer who notifies the department pursuant to subsection (3)(a) that he disagrees with a tax assessment shall present his objections, the reasons for his objections, and any other information to the administrator of the division that administers the tax or to his designee within 60 days after the notice referred to in subsection (3)(a) is mailed. The reasons for objections may be provided in writing, by telephone, or, if requested by the taxpayer, at an informal conference. An informal conference is not subject to the Montana Administrative Procedure Act.

(c) Within 60 days after the taxpayer has presented his objections, as provided in subsection (3)(b), the administrator or

his designee shall issue a written decision addressing the taxpayer's objections and describing the reasons for the determination. The administrator's decision must also clearly set forth the taxpayer's review rights. The administrator's decision must be provided to the taxpayer and the director of revenue.

(4) (a) A taxpayer shall notify the department in writing that he objects to the administrator's decision within 30 days from the date that the decision is mailed, or he may appeal to the state tax appeal board as provided in subsection (6). If an objection is not made within 30 days, the administrator's decision and any assessment become final. By failing to object, the taxpayer waives any further right to review or appeal and a warrant for distraint may be issued without further opportunity to be heard on the assessment.

(b) Except as provided in subsection (6), a taxpayer who objects to the administrator's decision pursuant to subsection (4)(a) shall present his objections, his reasons for the objections, and any other information to the director of revenue or his designee within 60 days after the notice referred to in subsection (4)(a) is mailed. The director or his designee may consider written information, hold a telephone conference, or conduct an informal conference, none of which are subject to the Montana Administrative Procedure Act.

(c) Within 60 days after the taxpayer has presented his objections, the director or his designee shall issue a written

decision addressing the objections and describing the reasons for the decision. The director's decision is the final decision and assessment of the department.

(5) The taxpayer shall pay the assessment within 30 days after being mailed a copy of the final decision and assessment unless an appeal is filed with the state tax appeal board. If an appeal with the board is filed within 30 days after the final decision is mailed, payment is not due until final resolution by the board or, if further appeals are filed, by the appropriate court. However, any interest required by law shall continue to accrue.

(6) (a) A taxpayer who validly objects to the administrator's decision may elect to file an appeal with the state tax appeal board. The appeal must be filed within 30 days after mailing an objection to the administrator's decision. If an appeal is filed, the administrator's decision is the final decision of the department.

(b) If the director notifies the board within 30 days after an appeal is filed that he has not had an opportunity to review the administrator's decision and he believes a review may be helpful in resolving the controversy, the board shall stay the appeal for a time the board considers reasonable not to exceed 90 days except by the mutual consent of both parties. The taxpayer shall provide his objections and reasons for his objections to the director so that the director or his designee may review the

controversy and issue a decision within the period of the stay granted by the board. If the taxpayer is dissatisfied with the director's decision, the stay must be lifted and the appeal resumed.

(7) The time limits in this section must be applied and interpreted as provided in Rule 6 of the Montana Rules of Civil Procedure, including additional time for mailing. Any time limit may be extended by mutual consent of the department and the taxpayer. The department shall consent to all reasonable requests for extension of deadlines.

(8) (a) The director of revenue or his designee is authorized to enter into an agreement with any taxpayer relating to the taxpayer's liability with respect to a tax administered by the department for any taxable period.

(b) An agreement under the provisions of subsection (8)(a) is final and conclusive, and, except upon a showing of fraud, malfeasance, or misrepresentation of a material fact:

(i) the agreement may not be reopened as to matters agreed upon or be modified by any officer, employee, or agent of this state; and

(ii) in any suit, action, or proceeding under the agreement or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance with the agreement, the agreement may not be annulled, modified, set aside, or disregarded.

Section 2. Section 15-1-403, MCA, is amended to read:

"15-1-403. Assessment for taxation -- increase over statement of owner. (1) Whenever any person has delivered to the department of revenue or its agent a sworn statement of his locally assessed property subject to taxation as now provided by law and giving the estimated value of such property and the department or its agent shall increase such estimated value or add other property to such assessment list, the agent shall, at least 10 days prior to the meeting of the county tax appeal board, give to such person written notice of such change, which notice shall be substantially in the following form:

(Date)

Mr.:

A change has been made in your assessment list as follows:

(Set out and describe specifically changes made in list.)

....., Agent
Department of Revenue

(2) Such person may then appear before the county tax appeal board and contest the same. If the assessment of any such person has been added to or changed, either by the department or by the county tax appeal board, and such person has not been notified thereof and given an opportunity to contest the same before the county tax appeal board, the tax on such increased value or added property shall, upon such facts being established, be adjudged by the state tax appeal board to be void, and such facts and all

questions relating thereto, when said tax has been paid under protest, may be heard and determined in the action provided for in 15-1-402."

Section 3. Section 15-1-406, MCA, is amended to read:

"15-1-406. Alternative remedy -- declaratory judgment. (1) An aggrieved taxpayer may, in lieu of proceeding under 15-1-402 or [section 1], bring a declaratory judgment action in the district court seeking a declaration that a tax levied by the state or one of its subdivisions was illegally or unlawfully imposed or exceeded the taxing authority of the entity imposing the tax.

(2) The action must be brought within 90 days of the imposition of the tax. The court shall consolidate all actions brought under subsection (1) which challenge the same tax levy. The decision of the court shall apply to all similarly situated taxpayers except those taxpayers who are excluded under 15-1-407.

(3) The taxes that are being challenged under this section must be paid when due as a condition of continuing the action."

Section 4. Section 15-1-705, MCA, is amended to read:

"15-1-705. Hearing Review. (1) Except as provided in 15-1-707, a taxpayer has the right to request--a--hearing--on a review of the matter--of tax liability pursuant to [section 1] prior to execution on a filed warrant for distraint.

(2) The department must provide notice of the right to hearing review to the taxpayer. A request for a hearing must be made in writing within 30 days of the date of the notice. This

notice may be given prior to the notice referred to in 15-1-702. If a written request for a hearing is received the taxpayer notified the department that he disagrees with an assessment as provided in [section 1], the warrant may not be executed upon until after the date the hearing is held or, if the taxpayer fails to attend a scheduled hearing, the date the hearing is scheduled review process and any appeals are completed.

~~(3) -- The hearing is subject to the contested case provisions of the Montana Administrative Procedure Act. Before a decision may be appealed to the district court, an appeal must first be taken to the state tax appeal board. A request for a hearing must be in writing in order to postpone execution on a warrant.~~

Section 5. Section 15-8-601, MCA, is amended to read:

"15-8-601. Assessment revision -- conference for review. (1) Whenever the department of revenue discovers that any taxable property of any person has in any year escaped assessment, been erroneously assessed, or been omitted from taxation, the department may assess the same provided the property is under the ownership or control of the same person who owned or controlled it at the time it escaped assessment, was erroneously assessed, or was omitted from taxation. All such revised assessments must be made within 10 years after the end of the calendar year in which the original assessment was or should have been made.

(2) Whenever the department or its agent proposes to increase the valuation of locally assessed property above the value

reported by the taxpayer under 15-8-301, the action of the department is subject to the notice and conference provisions of this section. Revised assessments of centrally assessed property are subject to review pursuant to [section 1].

(3) (a) Notice of revised assessment pursuant to this section shall be made by the department or its agent by postpaid letter addressed to the person interested within 10 days after the revised assessment has been made. The If the property is locally assessed, the notice shall include opportunity for a conference on the matter, at the request of the person interested, not less than 15 or more than 30 days after notice is given.

(b) An assessment revision review conference is not a contested case as defined in the Montana Administrative Procedure Act. The department shall keep minutes in writing of each assessment review conference, which are public records.

(c) Following an assessment review conference or expiration of opportunity therefor, the department shall order such assessment as it considers proper. Any party to the conference aggrieved by the action of the department ~~may appeal directly to the state tax appeal board within 30 days or, if the property is locally assessed, may appeal to the county tax appeal board at its next meeting.~~

(4) The department must record in a book to be kept for that purpose all changes, corrections, and orders made by it and must direct its agent to enter upon the assessment book all changes and

corrections made by it.

(5) Immediately upon receipt of a revised assessment, the county official possessing the assessment roll book shall enter the revised assessment. If the revised assessment corrects an original assessment, the previous entry shall be canceled upon order of the department."

Section 6. Section 15-23-104, MCA, is amended to read:

"15-23-104. Failure to file -- estimate by department. -- penalty. If any person fails to file a report or return within the time established in 15-23-103 or by such later date as the department may approve, the department shall estimate the value of the property to have been reported on the basis of the best available information. In estimating the value of the net proceeds of mines, the department shall proceed under 15-23-506, and in estimating the value of the gross proceeds of coal mines, the department shall proceed under 15-35-107. In estimating the value of all other property subject to assessment under parts 2 through 4 of this chapter, the department shall proceed under 15-1-303. In estimating value under this section, the department may subpoena a person or his agent as specified in 15-1-302. An assessment pursuant to parts 5 through 8 of this chapter based on estimated value or imputed value is subject to review under 15-8-691 [section 1]. Each month or part of a month a report is delinquent, the department shall impose and collect a \$15 penalty, the total not to exceed \$200, and shall deposit such penalty to the credit

of the general fund. The department will also inform its agents in the counties of the delinquency, and the agents shall assess a penalty of 1% of the tax due for each month or part of a month the report is delinquent."

Section 7. Section 15-25-114, MCA, is amended to read:

"15-25-114. Tax appeal review. A person aggrieved by an assessment pursuant to 15-25-111 or an exemption decision pursuant to 15-25-112 may appeal seek a review of the assessment or exemption decision pursuant to Title--15--chapter--2--part--3 [section 1]."

Section 8. Section 15-30-148, MCA, is amended to read:

"15-30-148. Judicial review. (1) The determination of the state tax appeal board may be reviewed in the district court for Lewis and Clark County or the county in which the taxpayer resides or has his principal office or place of business by a complaint filed by the taxpayer or the department within 6-months 30 days after the receipt of notice of the ~~determination of the state tax~~ appeal--board determination. Proceedings for review shall be otherwise as specified under the Montana Administrative Procedure Act.

(2) The remedies provided by this chapter for the collection of the tax shall be stayed, and no assessment, distraint, or proceedings in court for collection of the taxes may be made, begun, or prosecuted until 90 days after such court action is finally determined. From any determination of such court, an

appeal to the supreme court may be taken by either party."

Section 9. Section 15-30-149, MCA, is amended to read:

"15-30-149. Credits and refunds -- period of limitations. (1)

If the department discovers from the examination of a return or upon claim duly filed by a taxpayer or upon final judgment of a court that the amount of income tax collected is in excess of the amount due or that any penalty or interest was erroneously or illegally collected, the amount of the overpayment shall be credited against any income tax, penalty, or interest then due from the taxpayer and the balance of such excess shall be refunded to the taxpayer.

(2) (a) A credit or refund under the provisions of this section may be allowed only if, prior to the expiration of the period provided by 15-30-145 and by 15-30-146 during which the department may determine tax liability, the taxpayer files a claim or the department determines there has been an overpayment.

(b) If an overpayment of tax results from a net operating loss carryback, the overpayment may be refunded or credited within the period that expires on the 15th day of the 40th month following the close of the taxable year of the net operating loss if that period expires later than 5 years from the due date of the return for the year to which the net operating loss is carried back.

(3) Within 6 months after a claim for refund is filed, the department shall examine said the claim and either approve or

disapprove it. If said the claim is approved, the credit or refund shall must be made to the taxpayer within 60 days after the claim is approved. if If the claim is disallowed, the department shall so notify the taxpayer and shall--grant--a--hearing--thereon--upon proper--application-by-the-taxpayer--if-the-department-disapproves a-claim-for-refund, review of the determination of the department may be had pursued as otherwise provided in this-chapter [section 1].

(4) Except-as-hereinafter-provided--for--interest--shall--be Interest is allowed on overpayments at the same rate as is charged on delinquent taxes. due Interest is payable from the due date of the return or from the date of the overpayment, whichever date is later, to the date the department approves refunding or crediting of the overpayment. With respect to tax paid by withholding or by estimate, the date of overpayment shall-be-deemed-to-be is the date on which the return for the taxable year was due. No-interest shall Interest does not accrue on an overpayment if the taxpayer elects to have it applied to his estimated tax for the succeeding taxable year. nor-shall-interest. Interest does not accrue during any period the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment. No-interest-shall-be Interest is not allowed if:

(a) the overpayment is refunded within 6 months from the date

the return is due or the date the return is filed, whichever date is later;

(b) the overpayment results from the carryback of a net operating loss; or

(c) the amount of interest is less than \$1.

(5) An overpayment not made incident to a bona fide and orderly discharge of an actual income tax liability or one reasonably assumed to be imposed by this law shall is not be considered an overpayment with respect to which interest is allowable."

Section 10. Section 15-31-503, MCA, is amended to read:

"15-31-503. Deficiency assessment -- hearing notice -- interest. (1) If the department of revenue determines that the amount of tax due is greater than the amount disclosed by the return, it shall mail to the taxpayer a notice, pursuant to (Section 11), of the additional tax proposed to be assessed. The taxpayer may seek review of the determination pursuant to (Section 11). Within--30-days-after-the-mailing-of-the-notice--the-taxpayer may-file--with--the--department--a--written--protest--against--the proposed--additional-tax--setting-forth-the-grounds-upon-which-the protest-is-based--and-may-request-in-its-protest-an-oral-hearing or--an--opportunity-to-present-additional-evidence-rebating-to-its tax-liability--if--no--protest-is--filed--the--amount--of--the additional-tax-proposed-to-be--assessed--becomes--final--upon--the expiration--of--the--30-day--period--if--such-protest-is--filed--the

department-shall-reconsider-the-proposed-assessment--and--if--the taxpayer--has--so--requested--shall--grant--the--taxpayer-an-oral hearing--After-consideration--of--the--protest--and--the--evidence presented-in-the-event-of-an-oral-hearing--the-department's-action upon--the--protest--is-final-when-it-mails-notice-of-its-action-to the-taxpayer--

(2) When-a-deficiency--is--determined--and--the--tax--becomes final--the-department-shall-mail-notice-and-demand-to-the-taxpayer for--the--payment--thereof--and--the--tax--shall--be--due--and--payable--at the-expiration-of-10-days-from-the-date-of-such-notice-and-demand-- Interest on any deficiency assessment shall bear interest from the date specified in 15-31-502 for payment of the tax. A certificate by the department of the mailing of the notices specified in this subsection shall be prima facie evidence of the computation and levy of the deficiency in tax and of the giving of the notices."

Section 11. Section 15-31-532, MCA, is amended to read:

"15-31-532. Application for refund -- appeal from denial. If the department of revenue disallows any claim for refund, it shall notify the taxpayer accordingly--At-the-expiration-of-30-days-from the-mailing-of-the-notice--the-department's--action--shall--become final--unless--within--the--30-day--period--the-taxpayer--appeals--in writing--from--the--action--of--said-department--to--the--state-tax-appeal board--If-such-appeal-is-made--the-board-shall-grant--the--taxpayer an-oral--hearing--After-consideration-of-the-appeal-and-evidence presented--the-board-shall--forthwith--mail--notice--to--the--taxpayer

~~of its determination. The board's determination is final when it mails notice of its action to the taxpayer as provided in [section 1]. The taxpayer may seek review of the decision pursuant to [section 1]."~~

Section 12. Section 15-31-701, MCA, is amended to read:

"15-31-701. Department of revenue -- special duties for transmitting corporation license tax revenues collected from banks or savings and loan associations to counties. (1) Within 30 days after receiving corporation license tax returns and payments from banks or savings and loan associations, the department of revenue shall transmit to the county treasurer of the county in which the business is located the revenues calculated under 15-31-702(1)(b).

(2) If the department of revenue determines, under the provisions of 15-31-503 and 15-31-531, that a bank or savings and loan association owes more taxes than shown on the original return or has paid more than the tax, penalty, or interest due in any year, it shall notify the bank or savings and loan association pursuant to [section 1]. ~~Additional payment is due within 10 days after receipt of the final determination of taxes due. Review may be sought pursuant to [section 1].~~ County treasurers shall issue warrants for their portion of the overpayment received and interest, as provided in 15-31-531.

(3) The department shall continue to exercise all its duties and powers outlined in this title with respect to auditing returns and enforcing payment of the corporation license taxes owed by

banks and savings and loan associations. Any delinquent taxes collected from the sale of property of a bank or savings and loan association under the provisions of 15-31-525 shall be transmitted to the county in which the corporation owing the delinquent taxes is located. The only duties of the county treasurers in this regard are issuing refunds and distributing the taxes to local taxing jurisdictions."

Section 13. Section 15-35-112, MCA, is amended to read:

"15-35-112. Deficiency assessment -- hearing review -- interest. (1) When the department of revenue determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to [section 1], of the additional tax proposed to be assessed. Within 30 days after mailing of the notice, the taxpayer may file with the department a written protest against the proposed additional tax, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his tax liability. If no protest is filed, the amount of the additional tax proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department must reconsider the proposed assessment and, if the taxpayer has so requested, must grant the taxpayer an oral hearing. After consideration of the protest and the evidence presented at any oral hearing, the department's action upon the protest is final when it mails notice

of its action to the taxpayer. The taxpayer may seek review of the determination pursuant to [section 1].

(2) When a deficiency is determined and the tax becomes final, the department shall mail a notice and demand for payment to the taxpayer. The tax is due and payable at the expiration of 10 days from the date of such notice and demand. Interest on any deficiency assessment shall bear interest until paid at the rate of 1% a month or fraction thereof, computed from the original due date of the return."

Section 14. Section 15-36-105, MCL, is amended to read:

"15-36-105. Statement to accompany payment -- records -- collection of tax -- refunds. (1) Each person shall, within 60 days after the end of each following quarter, complete on forms prescribed by the department of revenue a statement showing the total number of barrels of merchantable or marketable petroleum and other mineral or crude oil or cubic feet of natural gas produced or extracted by the person in the state during each month of the quarter and during the whole quarter, the average value of the production during each month, and the total value of the production for the whole quarter, together with the total amount due to the state as severance taxes and local government severance taxes for the quarter, and shall within such 60 days deliver the statement and, except as provided in 15-36-102(2) and 15-36-121, pay to the department the amount of the taxes shown by the statement to be due to the state for the quarter for which the

statement is made. The statement must be signed by the individual or the president, vice-president, treasurer, assistant treasurer, or managing agent in this state of the association, corporation, joint-stock company, or syndicate making the statement. Any person engaged in carrying on business at more than one place in this state or owning, leasing, controlling, or operating more than one oil or gas well in this state may include all operations in one statement. The department shall receive and file all statements and collect and receive from the person making and filing a statement the amount of tax payable by the person, if any, as appears in the statement.

(2) It is the duty of the department to examine each of the statements and compute the taxes thereon, and the amount computed by the department is the tax imposed, assessed against, and payable by the taxpayer making the statement for the quarter for which the statement is filed. If the tax found to be due is greater than the amount paid, the excess must be paid by the taxpayer to the department within 10 days after written notice of the amount of the deficiency is mailed by the department to the taxpayer pursuant to [section 1]. The taxpayer may seek review of the department's determination pursuant to [section 1]. If the tax imposed is less than the amount paid, the difference must be applied as a credit against tax liability for subsequent quarters or refunded if there is no subsequent tax liability.

(3) If the tax is not paid on or before the due date, there

must be assessed a penalty of 10% of the amount of the tax, unless it is shown that the failure was due to reasonable cause and not due to neglect. If any tax under this chapter is not paid when due, interest must be added to the tax at the rate of 1% a month or fraction thereof, computed on the total amount of severance tax and penalty from the due date until paid."

Section 15. Section 15-36-113, MCA, is amended to read:

"15-36-113. Deficiency assessment -- hearing review -- interest. (1) When the department of revenue determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to [section 1], of the additional tax proposed to be assessed. Within 30--days--after--mailing--of--the--notice--the--taxpayer--may--file--with--the--department--a--written--protest--against--the--proposed--additional--tax--setting--forth--the--grounds--upon--which--the--protest--is--based--and--may--request--an--oral--hearing--or--an--opportunity--to--present--additional--evidence--relating--to--his--tax--liability--if--no--protest--is--filed--the--amount--of--the--additional--tax--proposed--to--be--assessed--becomes--final--upon--the--expiration--of--the--30-day--period--if--a--protest--is--filed--the--department--must--reconsider--the--proposed--assessment--and--if--the--taxpayer--has--so--requested--must--grant--the--taxpayer--an--oral--hearing--After--consideration--of--the--protest--and--the--evidence--presented--at--any--oral--hearing--the--department's--action--upon--the--protest--is--final--when--it--mails--notice--of--its--action--to--the--taxpayer The taxpayer may seek review of the

determination pursuant to [section 1].

(2) When--a--deficiency--is--determined--and--the--tax--becomes--final--the--department--shall--mail--a--notice--and--demand--for--payment--to--the--taxpayer--The--tax--is--due--and--payable--at--the--expiration--of--10--days--from--the--date--of--such--notice--and--demand--Interest--on--any--deficiency--assessment--shall--bear--interest--until--paid--at--the--rate--of--1%--a--month--or--fraction--thereof--computed--from--the--original--due--date--of--the--return--.

Section 16. Section 15-37-110, MCA, is amended to read:

"15-37-110. Hearing on Review of determination of gross value of product or amount of tax. Every person whose license tax has been determined and assessed by the department of revenue under any of the provisions of this part who feels aggrieved by the determination and assessment of the department as to the amount of gross value of product or as to the amount of the license tax may seek review pursuant to [section 1]. At any time within 10 days after the receipt of the required notice of such determination and assessment, file with the state tax appeal board a petition for a hearing, in which petition must be stated the grounds and reasons therefor and the manner in which the amount of the gross value of product or the amount of the license tax, or both, should be changed or corrected. Upon the filing of such petition, if it appears to the satisfaction of the state tax appeal board therefrom that the department has erred in any manner in ascertaining and determining the amount of the gross value of

product or the amount of the license tax or both or the board shall immediately correct such error or errors, and if such correction is in conformity with the request contained in the petition for a hearing, the board shall take no further steps in connection with such petition other than to notify the department of the correct amount of the license tax due from such person after the making of such correction, and notifying such person thereof, and such notice, promulgated by the department, shall be deemed notice of the board. When a person fails to appear to the board for reasons as above stated, the board shall, after hearing, find the amount of the license tax due from such person, and shall notify such person of such finding, and the board shall not be responsible for any damages or costs incurred by any person interested, and the department may introduce witnesses and get the testimony on any material matters connected with such return and license tax and, after considering such evidence, the board shall fix and determine the proper value of product and services the amount of the license tax to be paid by such person and give notice thereof to such person and the department."

Section 17. Section 15-37-114, MCA, is amended to read:

"15-37-114. Deficiency assessment -- hearing review -- interest. (1) When the department of revenue determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to (section 11, of the additional tax proposed to be assessed. Within

60-days-after-mailing-of-the-notice--the-taxpayer--may--file--with
the--department--a-written-protest-against-the-proposed-additional
tax-setting-forth-the-grounds-upon-which-the--protest--is--based,
and--may--request-in-his-protest-an-oral-hearing-or-an-opportunity
to-present-additional-evidence-relating-to-his-liability--if
no-protest-is-filed-within-60-days-of-the-additional-tax-proposed-to
be-assessed--thereon.--Should-any--the-whole-or-a-part--of--any
part--of--his-report-be-doubtful-the-Superintendent--must-responsible--for
regulating--such--material--and--the-taxpayer--shall--not--pay--more
than--the--amount--of--the--deficiency--plus--additionals--and--penalties--if--any.
If--the--Supt.--finds--evidence--pertaining--to--any--such--handling--and
reporting--related--to--any--case--he--shall--then--be--able--to--make
advice--as--soon--as--the--proper--law--enforcement--and--other--officers--of--the
determination pursuant to [section 1].

(1) When a deficiency is determined by the tax authority, the department shall mail or deliver and demand for payment to the taxpayer. The tax is due and payable at the expiration of 30 days from the date of such notice and demand. Interest on any deficiency assessment shall bear interest until paid at the rate of 1% a month or fraction thereof, computed from the original due date of the return."

Section 18. Section 15-37-210, MCA, is amended to read:

"15-37-210. Deficiency assessment -- hearing review -- interest. (1) When the department of revenue determines that the amount of tax due is greater than the amount disclosed by a

return, it shall mail to the taxpayer a notice, pursuant to [section 1], of the additional tax proposed to be assessed. Within 30-days-after-mailing-of-the-notice, the taxpayer may file with the department a written protest against the proposed additional tax, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his tax liability. If no protest is filed, the amount of the additional tax proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department must reconsider the proposed assessment and, if the taxpayer has so requested, must grant the taxpayer an oral hearing. After consideration of the protest and the evidence presented at any oral hearing, the department's action upon the protest is final when it mails notice of its action to the taxpayer. The taxpayer may seek review of the determination pursuant to [section 1].

(2) When a deficiency is determined and the tax becomes final, the department shall mail a notice and demand for payment to the taxpayer. The tax is due and payable at the expiration of 10 days from the date of such notice and demand. Interest on any deficiency assessment shall bear interest until paid at the rate of 1% a month or fraction thereof, computed from the original due date of the return."

Section 19. Section 15-38-110, MCA, is amended to read:

"15-38-110. Deficiency assessment -- hearing review --

interest. (1) When the department of revenue determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to [section 1], of the additional tax proposed to be assessed. Within 30-days-after-mailing-of-the-notice, the taxpayer may file with the department a written protest against the proposed additional tax, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his tax liability. If no protest is filed, the amount of the additional tax proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department must reconsider the proposed assessment and, if the taxpayer has so requested, must grant the taxpayer an oral hearing. After consideration of the protest and the evidence presented at any oral hearing, the department's action upon the protest is final when it mails notice of its action to the taxpayer. The taxpayer may seek review of the determination pursuant to [section 1].

(2) When a deficiency is determined and the tax becomes final, the department shall mail a notice and demand for payment to the taxpayer. The tax is due and payable at the expiration of 10 days from the date of such notice and demand. Interest on any deficiency assessment shall bear interest until paid at the rate of 1% a month or fraction thereof, computed from the original due date of the return."

of 15 a month or fraction thereof, computed from the original due date of the return."

Section 21. Section 15-53-105, MCA, is amended to read:

(2) When a deficiency is determined and the tax becomes final, the department shall mail a notice and demand for payment to the taxpayer. The tax is due and payable at the expiration of

10--days--from-the-date-of-such-notice-and-demand: Interest on any deficiency assessment shall bear interest until paid at the rate of 1% a month or fraction thereof, computed from the original due date of the return."

Section 22. Section 15-55-106, MCA, is amended to read:

"15-55-106. Appeals Review and--refunds. (1) Any--such A freight line company or railroad company, on or before June 1 of the year in which the tax herein-imposed has been paid, may file written-complaint-with-the-state--tax--appeal--board seek review pursuant to [section 1] concerning the correctness of the rate used or the correctness of the amount of the tax imposed or any other matter affecting the complainant under the provisions of this chapter.

(2)--Upon-filing-such-complaint,--the-state--tax--appeal--board shall--set--the--same--for--hearing--and-shall-give-written-notice thereof-to-the-complainant-at-least-10-days-before--the--date--set for--hearing--thereon. Upon-the-hearing-of-any-such-complaint,--the state-tax-appeal-board-shall-take-testimony-to--determine--whether the--amount--of--the--tax,--as--computed--and--determined--by--the department--of-revenue,--is-greater-than-the-general-ad-valorem-tax for-all-purposes-would-be-on-the-cars-of-such-freight-line-company subject-to-taxation-in-Montana-if-assessed--and--taxed--on--an--ad valorem-basis. In-such-cases-the-state-tax-appeal-board-shall-have the--power--and--it--shall-be-its-duty-to-lower-or-raise-the-rates herein-specified-to-conform-to-the-facts-disclosed-at-such-hearing

and-to-make-the-amount-of--the--tax--due--equivalent--to--such--ad valorem--tax. If--the-state-tax-appeal-board-shall-then-determine that-the-amount-of-the-tax-imposed-and--collected--was--excessive, the--claimant--shall-be-entitled-to-a-refund-to-the-extent-of-such excess.

(3)--Within-6-months-after-such--determination,--the--claimant may--present--to--the--department--a--sworn-claim-for-such-refund, setting-forth-the-amount-thereof. The-state-auditor-shall-draw-his warrant-upon-the-state-treasurer-for-the-amount-of-such-claim,--and the-same-shall-be-paid-in-the-same-manner-as-other-claims--against the-state-are-paid.

(4)(2) In order to determine the amount of tax such a freight line company would pay, the department may value all cars of any such the company as a unit and allocate to Montana that proportion of the total value which the Montana car mileage bears to the total car mileage of the cars of any-such the freight line company during the 12-month period ending December 31 of the preceding year and may then apply to such that value the average total rate of all general property taxes levied for the preceding year by the taxing authorities of the state, counties, school districts, municipalities, and other taxing subdivisions for state, county, school and municipal, and other purposes."

Section 23. Section 15-58-110, MCA, is amended to read:

"15-58-110. Deficiency assessment -- hearing review -- interest. (1) When the department of revenue determines that the

amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to [section 1], of the additional tax proposed to be assessed. Within 30--days--after--mailing-of-the-notice, the taxpayer may file with the department a written protest against the proposed additional tax, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his tax liability. If no protest is filed, the amount of the additional tax proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department must reconsider the proposed assessment and, if the taxpayer has so requested, must grant the taxpayer an oral hearing. After consideration of the protest and the evidence presented at any oral hearing, the department's action upon the protest is final when it mails notice of its action to the taxpayer. The taxpayer may seek review of the determination pursuant to [section 1].

(2) When a deficiency is determined and the tax becomes final, the department shall mail a notice and demand for payment to the taxpayer. The tax is due and payable at the expiration of 10 days from the date of such notice and demand. Interest on any deficiency assessment shall bear interest until paid at the rate of 1% a month or fraction thereof, computed from the original due date of the return."

Section 24. Section 15-59-112, MCA, is amended to read:

"15-59-112. Deficiency assessment -- hearing review -- interest. (1) When the department of revenue determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, as provided in [section 1], of the additional tax proposed to be assessed. Within 30--days--after--mailing-of-the-notice, the taxpayer may file with the department a written protest against the proposed additional tax, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his tax liability. If no protest is filed, the amount of the additional tax proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department must reconsider the proposed assessment and, if the taxpayer has so requested, must grant the taxpayer an oral hearing. After consideration of the protest and the evidence presented at any oral hearing, the department's action upon the protest is final when it mails notice of its action to the taxpayer. The taxpayer may seek review of the determination pursuant to [section 1].

(2) When a deficiency is determined and the tax becomes final, the department shall mail a notice and demand for payment to the taxpayer. The tax is due and payable at the expiration of 10 days from the date of such notice and demand. Interest on any deficiency assessment shall bear interest until paid at the rate of 1% a month or fraction thereof, computed from the original due

date of the return."

Section 25. Section 15-59-212, MCA, is amended to read:

"15-59-212. Deficiency assessment -- hearing review -- interest. (1) When the department of revenue determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to [section 1], of the additional tax proposed to be assessed. Within 30--days--after--mailing-of-the-notice, the taxpayer may file with the department a written protest against the--proposed--additional tax, setting--forth--the grounds upon which the protest is based, and may request in his protest an oral hearing or--an--opportunity to--present--additional evidence relating to his tax liability. If no protest is filed, the amount of the additional tax proposed to be--assessed--becomes--final--upon--the--expiration--of--the--30-day period. If a protest is filed, the department must reconsider--the proposed--assessment--and,--if--the taxpayer has so requested, must grant the taxpayer an oral hearing. After--consideration--of--the protest--and--the--evidence--presented--at--any--oral hearing, the department's action upon the protest is final when it mails notice of its action to the taxpayer. The taxpayer may seek review of the determination pursuant to [section 1].

(2) When--a--deficiency--is--determined--and--the tax becomes final, the department shall mail a notice and demand--for--payment to--the--taxpayer. The tax is due and payable at the expiration of 10 days from the date of such notice and demand. Interest on any

deficiency assessment shall bear interest until paid at the rate of 1% a month or fraction thereof, computed from the original due date of the return."

Section 26. Section 15-65-115, MCA, is amended to read:

"15-65-115. Failure to pay or file -- penalty -- review -- interest. (1) An owner or operator of a facility who fails to file the report as required by 15-65-112 must be assessed a penalty of 2% of the tax that should have been collected during the calendar quarter. Upon a showing of good cause, the department of revenue may waive the penalty.

(2) An owner or operator of a facility who fails to make payment or fails to report and make payment as required by 15-65-112 must be assessed a penalty of 2% of the amount that was not paid. Upon a showing of good cause, the department may waive the penalty.

(3) If an owner or operator of a facility fails to file the report required by 15-65-112 or if the department of revenue determines that the report understates the amount of tax due, the department may determine the amount of the tax due and assess that amount against the owner or operator. The provisions of [section 1] apply to any assessment by the department of revenue. The taxpayer may seek review of the assessment pursuant to [section 1].

(4) The amount required to be paid under 15-65-112 accrues interest at the rate of 1% a month or part thereof from

delinquency until paid."

Section 27. Section 69-1-225, MCA, is amended to read:

"69-1-225. Computation and collection of fee in absence of statement -- penalty and interest. (1) If a regulated company or an officer or employee of a regulated company fails, neglects, or refuses to file the statement required by 69-1-223(2), the department of revenue may after the time for filing has expired proceed to inform itself, as best it may, regarding the regulated company's gross operating revenue from all activities regulated by the commission within the state for the calendar quarter, quarters, or portion thereof and may determine and fix the amount of the consumer counsel fee due.

(2) The department may add to the amount of the fee computed under subsection (1), in addition to any other penalty provided by law, a penalty of 10% thereof plus interest at the rate of 1% per month or fraction of month computed on the total amount of fee and penalty. Interest is computed from the date the fee is due to the date of payment.

(3) The department of revenue shall mail to the regulated company a letter notice, pursuant to [section 1], setting forth the amount of the fee, penalty, and interest and--notifying--the company--that--payment-of-the-full-amount-of-the-fee, penalty, and interest must--be--remitted--within--15--days--of--the--regulated company's receipt-of-the-letter, otherwise a warrant for distraint may be filed. The taxpayer may seek review of the department's action pursuant

to [section 1].

(4) The 10% penalty may be waived by the department of revenue if reasonable cause for failure and neglect to file the statement is provided to the department."

Section 28. Section 69-1-226, MCA, is amended to read:

"69-1-226. Failure to pay fee -- penalty and interest -- collection of fee. (1) If a regulated company or an officer or employee of a regulated company files the statement required by 69-1-223(2) but fails, neglects, or refuses to pay the fee due within the time required, the department of revenue may after the time for payment has expired add to the fee due, in addition to any other penalty provided by law, a penalty of 10% thereof plus interest at the rate of 1% per month or fraction of month computed on the total amount of the fee and penalty. Interest is computed from the date the fee is due to the date of payment.

(2) The department of revenue shall mail to the regulated company a letter notice, pursuant to [section 1], setting forth the amount of the fee, penalty, and interest and--notifying--the company--that--payment-of-the-full-amount-of-the-fee, penalty, and interest must--be--remitted--within--15--days--of--the--regulated company's receipt-of-the-letter, otherwise a warrant for distraint may be filed. The taxpayer may seek review of the department's action pursuant to [section 1].

(3) The 10% penalty may be waived by the department of revenue if reasonable cause for failure and neglect to make

payment is provided to the department."

Section 29. **Repealer.** Section 15-55-107, MCA, is repealed.

Section 30. **Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to [section 1].

Section 31. **Applicability.** [This act] applies to requests for refunds received by and the notices of additional tax issued by the department of revenue pursuant to [section 1] after December 31, 1991.

Section 32. **Effective dates.** (1) For the purposes of promulgating administrative rules to administer [this act], [section 1] is effective on passage and approval.

(2) The remainder of [this act] is effective October 1, 1991.